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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV95–916–1–IFR]

Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule revises the handling requirements for California nectarines and peaches by modifying the size, maturity, container, and pack requirements for fresh shipments of these fruits, beginning with 1995 season shipments. This rule enables handlers to continue shipping fresh nectarines and peaches meeting consumer needs in the interest of producers, handlers, and consumers of these fruits.

DATES: Effective April 1, 1995. Comments which are received by April 20, 1995 will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456; or by facsimile at 202–720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Kenneth Johnson, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–2861; or Terry Vawter, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California, 93721; telephone: (209) 487–5901.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order Nos. 916 and 917 [7 CFR Parts 916 and 917] regulating the handling of nectarines and peaches grown in California, hereinafter referred to as the orders. The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 300 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. Small agricultural service firms have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000, and small agricultural producers are defined as those whose annual receipts are less than $5,000,000. A majority of these handlers and producers may be classified as small entities.

The Nectarine Administrative Committee (NAC) and the Peach Commodity Committee (PCC) met December 7, 1994, and recommended that the handling requirements for California nectarines and peaches be revised, respectively. These committees meet prior to and during each season to review the rules and regulations effective on a continuous basis for California nectarines and peaches under the orders. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

Container and Pack Requirements (Nectarines)

Section 916.350 specifies container and pack requirements for fresh nectarine shipments. Paragraph (a)(4)(iv) of § 916.350 specifies the tray-pack size designations which must be marked on loose-filled or tight-filled containers, depending on the size of the fruit. The size designations specify the maximum number of nectarines in a 16-pound sample for each tray-pack size designation. This rule revises paragraph

(a)(4)(iv) of § 916.350 by modifying two size designations for the weight-count standards in Column B of TABLE I for early-season and mid-season nectarine varieties. This table was added prior to the 1994 season. Research conducted by the NAC indicated that early-season and mid-season fruit weigh less than late-season fruit and therefore different weight-count standards were established for late-season fruit. Results from further research during the 1994 season suggest that some minor modifications of TABLE I are necessary to provide for more accurate weight-count standards for early-season and mid-season nectarines.

The NAC recommended these revised weight-count standards for nectarines after a comprehensive review of the relationships between the tray-pack containers and loose-filled or tight-filled containers for early-season and mid-season nectarine varieties. Specifically, the NAC's recommendation provides that the maximum number of nectarines of size 80 in a 16-pound sample of early-season and mid-season fruit is more appropriately 75 rather than 76. Also, the maximum number of nectarines of size 64 in a 16-pound sample of early-season and mid-season fruit is more appropriately 55 rather than 56.

Pack regulations provide for uniform packing practices. In particular, weight-count standards provide for comparability between fruit packed in loose-filled or tight-filled containers and fruit packed in tray-pack containers.

According to the NAC, packers occasionally moved fruit from tray-pack containers to loose-filled or tight-filled containers. This activity has led to an awareness, in regard to early-season and mid-season varieties, that fruit which was of proper size when tray-packed exceeded the maximum number of nectarines for the 16-pound sample for corresponding loose-filled or tight-filled containers. In some instances, these samples would need additional pieces of fruit to meet the 16-pound weight requirement, thus causing the pack to be marked smaller than its equivalent tray-pack size. When packs are marked with a smaller size, the container is generally sold for a lower price. Revised and refined weight-count standards for early-season and mid-season varieties should provide for more accurate marking of size when packed in loose-filled or tight-filled containers compared to equivalent sizes that are tray packed. These regulations provide for uniformly packed containers of nectarines.

Currently, under the marketing order the minimum maturity requirement for nectarines grown in California is U.S. Mature, which means that the nectarine has reached the stage of growth which will insure a proper completion of the ripening process. A higher maturity standard is defined as California ''Well Matured,'' which is a condition distinctly more advanced than mature.

This rule adds a definition of ''tree ripe'' to paragraph (b) of section 916.350. According to the NAC, ''tree ripe'' is an optional marking without regard to maturity that is stamped on containers of nectarines. Currently there is no definition of ''tree ripe''. As a result of inquiries from the industry and the trade, the NAC recommended defining ''tree ripe'' so that it has a standard meaning. In the past, there has been no definition of ''tree ripe'' although fruit boxes marked ''tree ripe'' had to meet the minimum marketing order maturity standard of U.S. Mature. Handlers have been able to stamp any maturity level, including U.S. Mature, as ''tree ripe'' due to a lack of any definition for this nomenclature. The NAC stated that in some instances, handlers have stamped ''tree ripe'' on every box of fruit they packed all season. There is growing concern within the industry that fruit packed at the lower level of acceptable maturity do not represent what is most commonly perceived as tree ripe. By requiring that fruit must be at a minimum California Well Matured maturity standard in order to be marked ''tree ripe'' will help ensure that buyer expectations are met.

Maturity Requirements (Nectarines)

Section 916.356 specifies maturity requirements for fresh nectarines in paragraph (a)(1)(i), including TABLE I, for fruit being inspected and certified as meeting the maturity requirements for ''well matured'' fruit. Such maturity requirements are based on maturity measurements which are generally recognized in terms of maturity guides (e.g., color chips) specified in paragraph (a)(1)(i) and TABLE I of § 916.356 for nectarines. This rule revises TABLE I of paragraph (a)(1)(i) of § 916.356 for nectarines to change the maturity guide for one nectarine variety.

Specifically, a change in color standard was recommended for Alshir Red from L to J. In a corresponding action, the tolerance for the Alshir Red variety that states ''except not less than an aggregate area of 95% of fruit surface shall meet the color standard established for the variety'' is deleted.

These changes for this nectarine variety are based on a continuing review of its individual maturity characteristics, and the identification of the appropriate color chip corresponding to the ''well matured'' level of maturity for such variety.

Size Requirements (Nectarines)

Section 916.356 specifies size requirements for fresh nectarines in paragraphs (a)(2) through (a)(9). This rule revises § 916.356 to establish variety-specific size requirements for fourteen nectarine varieties that were produced in commercially significant quantities of more than 10,000 packages for the first time during the 1994 season.

Size regulations are put in place to improve fruit quality by allowing fruit to stay on the tree for a greater length of time which not only improves maturity and therefore the quality of the product but also size and increases the number of packed boxes of nectarines per acre. This provides greater consumer satisfaction, more repeat purchases and therefore increases returns to growers. Varieties recommended for specific size regulation have been reviewed and recommendations are based on the characteristics of the variety to attain minimum size.

Paragraph (a)(4) is revised to include the Arctic Glo, May Jim, and Red Glo varieties; and paragraph (a)(6) of § 916.356 is revised to include the Arctic Queen, How Red, La Pinta, Red Fred, Royal Glo, Royal Red, Ruby Diamond, Spring Bright, Summer Blush, 424–195, and Nectarine 23 varieties.

This rule also revises § 916.356 to remove six nectarine varieties from the variety-specific size requirements specified in the section because less than 5,000 packages of each of these varieties were produced during the 1994 season. Paragraph (a)(2) of that section is revised to remove the Aurelio Grand and Maybelle nectarine varieties; paragraph (a)(4) is revised to remove the Grand Stan variety; and paragraph (a)(6) is revised to remove the Autumn Grand, Le Grand, and Super Red nectarine varieties. Nectarine varieties removed from the nectarine variety-specific list become subject to the non-listed variety size requirements specified in paragraphs (a)(7), (a)(8), and (a)(9) of § 916.356.

The NAC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these nectarine varieties, and consumer acceptance levels for various sizes of fruit. This rule is designed to establish minimum size requirements for fresh nectarines consistent with expected crop and market conditions.

Container and Pack Requirements (Peaches)

Section 917.442 currently specifies container and pack requirements for fresh peach shipments. Paragraph (a)(4)(iv) of § 917.442 specifies the tray-pack size designations which must be marked on loose-filled or tight-filled containers, depending on the size of the fruit. The size designations specify the maximum number of peaches in a 16-pound sample for each tray pack size designation. This rule revises paragraph (a)(4)(iv) of § 917.442 by modifying three size designations for the weight-count standards in Column B of TABLE I for early-season and mid-season peach varieties. Research conducted by the PCC indicated that early-season and mid-season fruit weighs less than late-season fruit and the weight-count standards were, therefore, modified based on that consideration. Results from the 1994 season suggest that some minor modifications of TABLE I are necessary to further correct the weight-count differences between early-season and mid-season peaches, and late-season peaches.

The PCC recommended the revised container marking requirement changes for peaches after a comprehensive review of the appropriate size pack-count relationships between the tray-pack containers and loose-filled or tight-filled containers for early-season and mid-season peach varieties prior to the 1995 season. Specifically, the PCC's recommendation provides that the maximum number of peaches of size 84 in a 16-pound sample of early-season and mid-season fruit is more appropriately 83 rather than 85. Also, the maximum number of peaches of size 70 in a 16-pound sample of early-season and mid-season fruit is more appropriately 64 rather than 66. The maximum number of peaches of size 60 in a 16-pound sample of early-season to mid-season fruit is more appropriately 50 rather than 47.

In making this revision, a conforming change is required in § 917.459(a)(4)(iii) which is referenced in TABLE I. Section 917.459(a)(4)(iii) currently provides a maximum number of 85 peaches in a 16-pound sample of early-season and mid-season fruit. This revision will modify the maximum number of peaches in a 16-pound sample of early-season and mid-season fruit to 83 pieces of fruit from the current 85 pieces of fruit.

Pack regulations provide for uniform packing practices. In particular, weight-count standards provide for equality between packs of loose-filled or tight-filled sizes to fruit sizes packed in tray-pack styles. Varieties harvested early in the season and packed in loose-filled or tight-filled pack styles have had more difficulty being equal in size to tray-pack style of packing.

According to the PCC, packers occasionally moved fruit from tray-pack styles of pack to loose-filled or tight-filled pack styles. This activity has led to an awareness, especially in regard to early-season varieties, that fruit which was of proper size when tray-packed exceeded the maximum number of nectarines for the 16-pound sample for corresponding loose- or tight-filled pack size. In some instances, these samples would need as many as 10 additional pieces of fruit to meet the 16-pound weight requirement, thus causing the pack to be ''marked'' smaller than its equivalent tray-pack size. When packs are ''marked'' smaller this causes the container to be sold for a lower price. During the 1994 season new weight-count assignments for early varieties were in place. Research continued with the purpose of possible refinement of those weight-count assignments.

Revised and refined weight-count standards for early varieties should provide for more accurate marking size when packed in loose-filled or tight-filled pack styles compared to equivalent sizes that are tray packed. These regulations provide for uniformly packed containers of peaches.

Currently, under the marketing order the minimum maturity requirement for peaches grown in California is U.S. Mature, which means that the peach has reached the stage of growth which will insure a proper completion of the ripening process. A higher maturity standard is defined as California ''Well Matured,'' which is a condition distinctly more advanced than mature.

This rule adds a definition of tree ripe to section 917.442 paragraph (b). According to the PCC, tree ripe is an optional marking without regard to maturity that is stamped on containers of peaches. Currently there is no definition of tree ripe. As a result of inquiries from the industry and the trade, the PCC wants to define tree ripe so that its interpretation is consistent with other descriptive markings. In the past there has been no definition of tree ripe although fruit boxes marked ''tree ripe'' had to meet minimum marketing order standards. Handlers have been able to stamp any maturity level, including U.S. Mature, as tree ripe due to a lack of any definition for this nomenclature. The PCC states that in some instances in the past, it is known that some handlers have stamped tree ripe on every box of fruit they packed all season. There is growing concern among the industry that fruit packed at the lowest levels of maturity do not represent what is most commonly perceived as tree ripe. By requiring fruit be at a minimum California ''Well Matured'' maturity standard in order to be marked tree ripe will help ensure that buyer expectations are met.

Maturity Requirements (Peaches)

Section 917.459 specifies maturity requirements for fresh peaches in paragraph (a)(1)(i), including TABLE I, for fruit being inspected and certified as meeting the maturity requirements for ''well matured'' fruit. Such maturity requirements are based on maturity measurements which are generally recognized in terms of maturity guides (e.g., color chips) specified in paragraph (a)(1)(i) and TABLE I of § 917.459 for peaches. This rule revises TABLE I of paragraph (a)(1)(i) of § 917.459 for peaches to change the maturity guide for the David Sun, King's Red, Crimson Lady and Johnny's White peach varieties.

The SPI recommended these changes for these peach varieties based on a continuing review of their individual maturity characteristics, and the identification of the appropriate color chip corresponding to the ''well matured'' level of maturity for such varieties.

Size Requirements (Peaches)

Section 917.459 specifies size requirements for fresh peaches in paragraphs (a)(2) through (a)(6), and paragraphs (b) and (c). This rule revises § 917.459 to establish variety-specific size requirements for eight peach varieties that were produced in commercially significant quantities of more than 10,000 packages for the first time during the 1994 season.

Size regulations are put in place to improve fruit quality by allowing fruit to stay on the tree for a greater length of time which not only improves maturity and therefore the quality of the product but also size and increases the number of packed boxes of peaches per acre. This provides greater consumer satisfaction, more repeat purchases and therefore increases returns to growers. Varieties recommended for specific size regulation have been reviewed and recommendations are based on the characteristics of the variety to attain minimum size.

In § 917.459 paragraph (a)(5) is revised to include the Snow Brite and Sugar May peach varieties; and paragraph (a)(6) is revised to include the August Delight, Autumn Rose, Red Boy, Royal Lady, September Snow, and Summer Sweet peach varieties.

This rule also revises § 917.459 to remove two peach varieties from the variety-specific size requirements specified in that section, because less than 5,000 packages of each of these varieties were produced during the 1994 season. In § 917.459 paragraph (a)(4) of § 917.459 is revised to remove the Morning Sun peach variety; and paragraph (a)(6) is revised to remove the Golden Lady peach variety. Peach varieties removed from the variety-specific list become subject to the non-listed variety size requirements specified in paragraphs (b) and (c) of § 917.459.

The removal of the Morning Sun variety from paragraph (a)(4) results in there being no varieties regulated within size 84 for the 1995 season. Since the variety-specific list is subject to change from one season to another, the Department wishes to reserve paragraph number § 916.459(a)(4) for future regulation of peaches at size 84.

The PCC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these peach varieties, and the consumer acceptance levels for various sizes of fruit. This rule is designed to establish minimum size requirements for fresh peaches consistent with expected crop and market conditions.

This rule reflects the committees' and the Department's appraisal of the need to revise the handling requirements for California nectarines and peaches, as specified. The Department's determination is that this rule will have a beneficial impact on producers, handlers, and consumers of California nectarines and peaches.

This rule establishes handling requirements for fresh California nectarines and peaches consistent with expected crop and market conditions, and will help ensure that all shipments of these fruits made each season will meet acceptable handling requirements established under each of these orders. This rule will also help the California nectarine and peach industries provide fruit desired by consumers. This rule is designed to establish and maintain orderly marketing conditions for these fruits in the interest of producers, handlers, and consumers.

Based on the above, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, and other information, it is found that the rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) California nectarine and peach growers and handlers should be apprised of this rule as soon as possible, since early shipments of these fruits are expected to begin about April 1; (2) this rule relaxes grade requirements for peaches and size requirements for several nectarine and peach varieties; (3) California nectarine and peach handlers are aware of these revised requirements recommended by the committees at public meetings, and they will need no additional time to comply with such requirements; and (4) the rule provides a 30-day comment period, and any written comments received will be considered prior to any finalization of this interim final rule.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Parts 916 and 917 are amended as follows:

PART 916—NECTARINES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 916.350 is amended by revising TABLE I of paragraph (a)(4)(iv) and paragraph (b) to read as follows:

§ 916.350 California Nectarine Container and Pack Regulation.

(a) * * *
(4) * * *
(iv) * * *

TABLE I—WEIGHT-COUNT STANDARDS FOR NECTARINES PACKED IN LOOSE OR TIGHT-FILLED CONTAINERS

Column A [1]	Column B [2]
108	100
96	90
88	83
84	78
80	75
72	67
70	60
64	55
60	49
56	46
54	40
50	38
48	35
42	31
40	30
36	25
34	23
32	22
30	19

[1] Tray Pack Size Designation.

[2] Maximum Number of Nectarines in a 16-pound Sample Applicable to Varieties Specified in Paragraphs (a)(2)(ii), (a)(3)(ii), (a)(4)(ii), (a)(5)(ii), (a)(7)(ii), and (a)(8)(ii) of § 916.356.

* * * * *

(b) As used in this section, *standard pack and fairly uniform in size* shall have the same meanings as set forth in U.S. Standards for Grades of Nectarines (§§ 51.3145 to 51.3160) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. No. 12B standard fruit box measures 2⅜ to 7⅛ × 11½ × 16⅛ inches, No. 22D standard lug box measures 2⅞ to 7⅛ × 13½ × 16⅛ inches, No.22E standard lug box measures 8¾ × 13½ × 16⅛ inches, No. 22G standard lug box measures 7⅜ to 7½ × 13¼ × 15⅞ inches. All dimensions are given in depth (inside dimension) by width by length (outside dimension). Individual consumer packages means packages holding 15 pounds or less net weight of nectarines. ''Tree ripe'' means fruit shipped and marked as tree ripe must meet minimum California Well Matured standards.

3. Section 916.356 is amended by revising paragraphs (a) introductory text, (a)(1), (a)(1)(i), Table I, (a)(2) introductory text, (a)(4) introductory text, and (a)(6) introductory text to read as follows:

§ 916.356 California Nectarine Grade and Size Regulation.

(a) During the period beginning April 1 and ending October 31, no handler shall ship:

(1) Any lot or package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grade: *Provided,* That nectarines 2 inches in diameter or smaller, shall not

have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle ⅜ inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle ½ inch in diameter: *Provided further,* That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen. The Federal or Federal-State Inspection Service shall make final determinations on maturity through the use of color guides or such other tests as determined appropriate by the inspection agency.

(i) The Federal or Federal-State Inspection Service will use the maturity guides listed in TABLE I in making maturity determinations for the specified varieties when inspecting to the ''well matured'' level of maturity. For these varieties, not less than 90 percent of any lot shall meet the color guide established for the variety, and an aggregate area of not less than 90 percent of the fruit surface shall meet the color guide established for the variety, except that for the Fairlane, Tom Grand, and 61–61 varieties of nectarines, not less than an aggregate area of 80 percent of the fruit surface shall meet the color guide established for the variety. For varieties not listed, the Federal or Federal-State Inspection Service will use such tests as it deems proper. A variance for any variety from the application of the maturity guides specified in TABLE I may be granted during the season to reflect changes in crop, weather, or other conditions that would make the specified guides an inappropriate measure of ''well matured.''

TABLE I

Column A variety	Column B maturity guide
Alshir Red	J
Ama Lyn	G
Apache	G
April Glo	H
Armking	B
August Glo	L
August Red	J
Aurelio Grand	F
Autumn Delight	M
Autumn Grand	L
Bob Grand	L
Clinton-Strawberry	H
Del Rio Rey	G
Desert Dawn	G
Early Diamond	J
Early May	F
Early May Grand	H
Early Star	G
Early Sungrand	H
Fairlane	M

TABLE I—Continued

Column A variety	Column B maturity guide
Fantasia	J
Firebrite	H
Flamekist	L
Flaming Red	K
Flavor Grand	G
Flavortop	J
Flavortop I	K
Gee Red	H
Gold King	H
Granderli	J
Grand Stan	F
Hi-Red	J
Independence	H
July Red	L
June Glo	H
June Grand	G
Kent Grand	L
Kism Grand	J
Larry's Grand	M
Late Le Grand	L
Late Tina Red	I
Le Grand	H
Maybelle	F
May Diamond	I
Mayfair	C
May Fire	H
May Glo	H
May Grand	H
May Kist	H
Mayred	B
Mid Glo	L
Mike Grand	H
Moon Grand	M
Niagara Grand	H
Pacific Star	G
P-R Red	L
Red Diamond	M
Red Delight	I
Red Free	L
Red Glen	J
Red Grand	H
Red Jim	L
Red June	G
Red Lion	J
Red May	J
Regal Grand	L
Rio Red	L
Royal Delight	F
Royal Giant	I
Ruby Grand	J
Ruby Sun	J
Scarlet Red	K
September Grand	L
September Red	L
Sheri Red	J
Sierra Star/181–119	G
Son Red	L
Sparkling June	M
Sparkling May	J
Sparkling Red	L
Spring Diamond	M
Spring Grand	G
Spring Red	H
Springtop	B
Stan's Grand	C
Star Bright	G
Star Brite	J
Star Grand	H
Summer Beaut	H
Summer Blush	J

TABLE I—Continued

Column A variety	Column B maturity guide
Summer Bright	J
Summer Diamond	M
Summer Fire	L
Summer Grand	L
Summer Lion	M
Summer Red	L
Summer Star	G
Sunburst	J
Sun Diamond	I
Sunfre	F
Sun Grand	G
Super Star	G
Tasty Free	J
Tasty Gold	H
Tom Grand	L
Zee Glo	J
61–61	J

Note: Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed above.

* * * * *

(2) Any package or container of May Glo variety nectarines through May 5 of each year; or April Glo, Mayfire, or Royal Delight variety nectarines, unless:

* * * * *

(4) Any package or container of Early May, Mike Grand, June Brite, June Glo, May Grand, May Diamond, May Lion, Pacific Star, Red Delight, Rose Diamond, Sparkling May, Star Brite, Sunfire, or Zee Grand variety nectarines unless:

* * * * *

(6) Any package or container of Alshir Red, Alta Red, Arctic Queen, Arctic Rose, August Glo, August Red, Autumn Delight, Big Jim, Bob Grand, Del Rio Rey, Early Red Jim, Early Sungrand, Fairlane, Fantasia, Firebrite, Flamekist, Flaming Red, Flavor Grand, Flavortop, Flavortop I, Grand Diamond, How Red, Independence, July Red, King Jim, Kay Diamond, Kism Grand, La Pinta, Late Le Grand, Late Red Jim, Mid Glo, Moon Grand, Niagara Grand, Prima Diamond, P-R Red, Red Diamond, Red Fred, Red Free, Red Glen, Red Jim, Red Lion, Rio Red, Royal Giant, Royal Glo, Royal Red, Ruby Diamond, Ruby Grand, Scarlet Red, September Grand, September Red, Son Red, Sparkling June, Sparkling Red, Spring Bright, Spring Diamond, Spring Red, Summer Beaut, Summer Blush, Summer Bright, Summer Diamond, Summer Fire, Summer Grand, Summer Lion, Summer Red, Summer Star, Sunburst, Sun Diamond, Sun Grand, Super Star, Tasty Gold, Tom Grand, Zee Glo, 181–119, 80P–1135, 424–195, or Nectarine 23 variety nectarines unless:

* * * * *

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

4. Section 917.442 is amended by revising TABLE I of paragraph (a)(4)(iv) and paragraph (b) to read as follows:

§ 917.442 California Peach Container and Pack Regulation.

(a) * * *
(4) * * *
(iv) * * *

Table I—Weight-Count Standards for Peaches Packed in Loose or Tight-Filled Containers

Column A[1]	Column B[2]
96	96
88	92
84	83
80	76
72	68
70	64
64	56
60	50
56	46
54	43
50	39
48	35
42	31
40	30
36	27
34	25
32	23
30	21

[1] Tray Pack Size Designation.
[2] Maximum Number of Peaches in a 16-pound Sample Applicable to Varieties Specified in Paragraphs (a)(2)(ii), (a)(3)(ii), (a)(4)(iii), (a)(5)(ii), and (b)(3) of § 917.459.

* * * * *

(b) As used in this section, *standard pack* shall have the same meaning as set forth in U.S. Standards for Grades of Peaches (§§ 51.1210 to 51.1223) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. No. 12B standard fruit box measures 2⅜ to 7⅛×11½×16⅛ inches, No. 22D standard lug box measures 2⅞ to 7⅛×13½×16⅛ inches, No.22E standard lug box measures 8¾×13½×16⅛ inches, No. 22G standard lug box measures 7⅜ to 7½×13¼×15⅞ inches. All dimensions are given in depth (inside dimension) by width by length (outside dimension). Individual consumer packages means packages holding 15 pounds or less net weight of nectarines. ''Tree ripe'' means fruit shipped and marked as tree ripe must meet minimum California Well Matured standards.

5. Section 917.459 is amended by revising paragraph (a)(2)(ii), adding Table I, and revising paragraphs (a)(4), (a)(5) introductory text, and (a)(6) introductory text to read as follows:

§ 917.459 California Peach Grade and Size Regulation.

(a) * * *
(2) * * *
(ii) If a grower or handler believes his/her fruit is meeting the appropriate maturity level but the fruit has not been so graded by the inspector, he/she may appeal the inspection by calling the officer-in-charge of the local Federal-State Inspection Service office to arrange for an on-site examination of the fruit.

TABLE I

Column A variety	Column B maturity guide
Angelus	I
Ambercrest	G
Armgold	D
August Sun	I
Autumn Crest	I
Autumn Gem	I
Autumn Lady	H
Autumn Rose	I
Bella Rosa	G
Belmont (Fairmont)	I
Berenda Sun	I
Blum's Beauty	G
Bonjour	F
Cardinal	G
Cal Red	I
Carnival	I
Cassie	H
Coronet	E
Crimson Lady	J
Crown Princess	J
David Sun	I
Desertgold	B
Diamond Princess	J
Early Coronet	D
Early Fairtime	I
Early May Crest	H
Early O'Henry	I
Early Royal May	G
Early Top	G
Elberta	B
Elegant Lady	M
Fairtime	G
Fancy Lady	J
Fay Elberta	C
Fayette	I
Fire Red	I
First Lady	D
Flamecrest	I
Flavorcrest	G
Flavor Queen	H
Flavor Red	G
Fortyniner	F
Franciscan	G
Goldcrest	H
Golden Crest	H
Golden Lady	F
Honey Red	G
Jody Gaye	F
John Henry	J
Judy Elberta	C
July Lady	G
June Crest	G
June Lady	G
June Pride	J
June Sun	H

TABLE I—Continued

Column A variety	Column B maturity guide
Kearney	I
Kern Sun	H
Kings Lady	I
Kings Red	I
Lacey	I
Mardigras	G
Mary Ann	G
May Crest	G
May Lady	G
Merrill Gem	G
Merrill Gemfree	G
Morning Sun	D
O'Henry	I
Pacifica	G
Parade	I
Pat's Pride	D
Preuss Suncrest	F
Prima Fire	H
Prima Lady	J
Prime Crest	H
Queen Crest	G
Ray Crest	G
Red Cal	I
Redglobe	C
Redhaven	G
Red Lady	G
Redtop	G
Regina	G
Rich Lady	J
Rich May	H
Rio Oso Gem	I
Royal April	D
Royal Lady	J
Royal May	G
Ruby May	H
Ryan Sun	I
Scarlet Lady	F
September Sun	I
Sierra Crest	H
Sierra Lady	I
Sparkle	I
Springcrest	G
Spring Lady	H
Springold	D
Sugar Lady	J
Summer Lady	M
Summerset	I
Suncrest	G
Sun Lady	I
Topcrest	H
Toreador	I
Tra Zee	J
Treasure	F
Willie Red	G
Windsor	I
Zee Lady	L
50–178	G

Note: Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed above.

* * * * *

(4) (i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 84 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of a standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in paragraph (a)(4) (i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 83 peaches.

(5) Any package or container of Babcock, Crimson Lady, Crown Princess, David Sun, Early May Crest, First Lady, Flavorcrest, Golden Crest, Honey Red, June Lady, June Sun, Kern Sun, Kingscrest, Kings Red, May Crest, Merrill Gem, Merrill Gemfree, Queencrest, Ray Crest, Redtop, Regina, Rich May, Royal May, Sierra Crest, Snow Brite, Snow Flame, Springcrest, Spring Lady, Sugar May, Summer Crest, or 50–178 variety of peaches unless:

* * * * *

(6) Any package or container of Amber Crest, Angelus, August Delight, August Sun, Autumn Crest, Autumn Gem, Autumn Lady, Autumn Rose, Belmont, Berenda Sun, Blum's Beauty, Cal Red, Carnival, Cassie, Champagne, Diamond Princess, Early Elegant Lady, Early O'Henry, Elegant Lady, Fairmont, Fairtime, Fay Elberta, Fire Red, Flamecrest, John Henry, July Lady, June Pride, Kings Lady, Lacey, Late Ito Red, Mary Ann, O'Henry, Parade, Prima Gattie, Prima Lady, Red Boy, Red Cal, Redglobe, Rich Lady, Royal Lady, Ryan's Sun, Scarlet Lady, September Snow, September Sun, Sierra Lady, Sparkle, Sprague Last Chance, Summer Lady, Summer Sweet, Suncrest, Tra Zee, White Lady, or Zee Lady variety of peaches unless:

* * * * *

Dated: March 15, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–6908 Filed 3–20–95; 8:45 am]

BILLING CODE 3410–02–W

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–23–AD; Amendment 39–9175; AD 95–06–05]

Airworthiness Directives; Boeing Model 737–200 and -300 Series Airplanes Equipped With Cargo Doors Installed in Accordance With Supplemental Type Certification (STC) SA2969SO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–200 and -300 series airplanes. This action requires inspections to detect cracking of the fuselage frames at certain locations below the lower jamb of the upper deck main cargo door, and repair, if necessary. This amendment is prompted by reports of fatigue cracking in the fuselage frames at these locations. The actions specified in this AD are intended to prevent rapid decompression of the airplane due to fatigue cracking in the fuselage frames of the main deck cargo door.

DATES: Effective April 5, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of April 5, 1995.

Comments for inclusion in the Rules Docket must be received on or before May 22, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–23–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Pemco Aeroplex, Incorporated, P.O. Box 2287, Birmingham, Alabama 35201–2287. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Curtis Jackson, Aerospace Engineer, Airframe Branch, ACE–120A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia 30337–2748; telephone (404) 305–7348; fax (404) 305–7348; or Della Swartz, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2785; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: Recently, two operators reported finding fatigue cracks in the fuselage frames below the lower jamb of the main deck cargo door between stringers 20L and 21L at water line 180 on Boeing Model 737–300 series airplanes. The cracking was randomly located in various areas of the fuselage frames and may have initiated at frame stations 380, 400, 420, 440, 460, and/or 480 at the radius of the frame webs that were modified in accordance with supplemental type certificate (STC) SA2969SO.

Such cracking, if not detected and corrected in a timely manner, could result in rapid decompression of the airplane.

Pemco Aeroplex installed main deck cargo doors on Boeing Model 737–200 and -300 series airplanes in accordance with STC SA2969SO. Therefore, the FAA has determined that Boeing Model 737–200 series airplanes are also subject to the same unsafe condition.

The FAA has reviewed and approved Pemco Alert Service Letter 737–53–0004, dated January 10, 1995, which describes procedures for detailed close visual inspections to detect cracking of the fuselage frames below the lower jamb of the upper deck main cargo door between stringers 20L and 21L at water line 180 at frame stations 380, 400, 420, 440, 460, and 480, and repair of any cracking found.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent rapid decompression of the airplane due to cracking of the fuselage frames below the lower jamb of the upper deck main cargo door. This AD requires detailed close visual inspections to detect cracking of the fuselage frames below the lower jamb of the upper deck main cargo door, and repair, if necessary. The actions are required to be accomplished in accordance with the alert service letter described previously.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Note: The FAA previously issued AD 95–01–06, amendment 39–9117 (60 FR 2323, January 9, 1995), which is applicable to the same airplanes affected by this new AD action. AD 95–01–06 requires inspections to detect cracking in the radii on the support angles on the lower jamb (latch lug fittings) of the main cargo door, and replacement of cracked parts. The requirements of AD 95–01–06 are different and separate from the requirements of this new AD.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this rule to clarify this long-standing requirement.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–23–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–06–05 Boeing: Amendment 39–9175. Docket 95–NM–23–AD.

Applicability: Model 737–200 and –300 series airplanes equipped with main deck cargo doors installed in accordance with supplemental type certificate (STC) SA2969SO, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent rapid decompression due to cracking of the fuselage frames below the lower jamb of the upper deck main cargo door, accomplish the following:

(a) Within 50 flight cycles after the effective date of this AD or within 50 flight cycles after the installation of STC SA2969SO, whichever occurs later, perform a detailed close visual inspection to detect cracking of the fuselage frames below the lower jamb of the upper deck main cargo door between stringers 20L and 21L at water line 180 at frame stations 380, 400, 420, 440, 460, and 480, in accordance with Pemco Alert Service Letter 737–53–0004, dated January 10, 1995.

(1) If no cracking is detected, repeat the visual inspection thereafter at intervals not to exceed 450 flight cycles until the repair described in Pemco Alert Service Letter 737–53–0004, dated January 10, 1995, has been accomplished.

(2) If any cracking is detected, prior to further flight, repair in accordance with Pemco Alert Service Letter 737–53–0004, dated January 10, 1995.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office (ACO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspections and repair shall be done in accordance with Pemco Alert Service Letter 737–53–0004, including Appendices I and II dated January 10, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pemco Aeroplex, Incorporated, P.O. Box 2287, Birmingham, Alabama 35201–2287. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on April 5, 1995.

Issued in Renton, Washington, on March 9, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–6319 Filed 3–20–95; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL79–1–6616A; FRL—5167–4]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) approves requested revisions to Chicago ozone Federal Implementation Plan (FIP) as it pertains to the following sources: General Motors Corporation, Electro-Motive Division Plant (GMC Electro-Motive), LaGrange, Illinois; Minnesota Mining and Manufacturing Corporation (3M), Bedford Park, Illinois; Replogle Globes, Inc. (Replogle); Broadview, Illinois; Candle Corporation of America (CCA), Chicago, Illinois; Nalco Chemical Company (Nalco) Bedford Park, Illinois Clearing Plant; Parisian Novelty Company (Parisian), Chicago, Illinois; Meyercord Corporation (Meyercord), Carol Stream, Illinois; Wallace Computer Services, Inc. (Wallace) Printing and Binding Plant, Hillside, Illinois; and the General Packaging Products, Inc. (GPP) Chicago, Illinois. This action lists the FIP revisions USEPA is approving and incorporates the relevant material into the Code of Federal Regulations. The rationale for the approval is set forth in this final rule; additional information is available at the address indicated below. Elsewhere in this **Federal Register**, USEPA is proposing approval, soliciting public comment, and offering an opportunity for a public hearing on these requested FIP revisions. If adverse comments are received or a public hearing is requested on this direct final rule, USEPA will withdraw this final rule and address the comments received in response to this final rule in the final rule on the proposed rule published in the proposed rules section of this **Federal Register**. Unless this final rule is withdrawn, no further rulemaking will occur on this requested FIP revision.

EFFECTIVE DATE: This action will be effective May 22, 1995 unless notice is received by April 20, 1995 that someone wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments can be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section (AR–18J), Regulation Development Branch, Air and Radiation Division, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Docket: Pursuant to sections 307(d)(1)(B) and (N) of the Clean Air Act (Act), 42 U.S.C. 7607(d)(1)(B) and (N), this action is subject to the procedural requirements of section 307(d). Therefore, USEPA has established a public docket for this action, A–94–39, which is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at the following addresses. We recommend that you contact Fayette Bright before visiting the Chicago location and Rachel Romine before visiting the Washington, D.C. location. A reasonable fee may be charged for copying.

The United States Environmental Protection Agency, Region 5, Regulation Development Branch, Eighteenth Floor, Southeast, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 886–6069.

United States Environmental Protection Agency, Docket No. A–94–39, Air Docket (LE–131), Room M1500, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460, (202) 245–3639.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Environmental Engineer (312) 886–6052.

SUPPLEMENTARY INFORMATION: On June 29, 1990, USEPA promulgated a FIP requiring Reasonably Available Control Technology (RACT) to control the emission of Volatile Organic Compounds (VOCs) in six counties in the Chicago metropolitan area. 55 FR 26818, codified at 40 CFR 52.741. In determining the applicability of some of these regulations to particular sources, USEPA used the concept of ''maximum theoretical emissions'' (MTE), which is defined as ''the quantity of volatile organic material emissions that theoretically could be emitted by a stationary source before add-on controls based on the design capacity or maximum production capacity of the source and 8760 hours per year * * * at ''55 FR 26860, 40 CFR 52.741(a). Relief for otherwise subject sources is available through a site-specific State Implementation Plan (SIP) or FIP revision that limits emissions to below the applicable cutoff by operational or production limitations.

The sources identified in Table 1 have requested that USEPA approve production or operational limitations that will keep their emissions below the applicability cutoff of the rule to which they would otherwise be subject. Production limits are restrictions on the amount of final product which can be manufactured or otherwise produced at a source. Operational limits are all other restrictions on the manner in which a source is run, including hours of operation and amount and type of raw material consumed. Production and operational limits must be stated as conditions that can be enforced independently of one another.

FIP revisions which limit VOC emissions to less than 100 tons VOC per year have been requested by the following nine companies.

TABLE 1.—REQUESTS FOR FEDERALLY ENFORCEABLE OPERATING RESTRICTIONS

State	Pollutant	Subject matter	Source	Date of submission
Illinois	VOM	Chicago Ozone FIP	GMC Electro-Motive	[1] NA
Illinois	VOM	Chicago Ozone FIP	3M	08/29/91
Illinois	VOM	Chicago Ozone FIP	Replogle	10/17/91
Illinois	VOM	Chicago Ozone FIP	CCA	09/05/91
Illinois	VOC	Chicago Ozone FIP	Nalco	02/23/93
Illinois	VOM	Chicago Ozone FIP	Parisian	04/09/92
Illinois	VOM	Chicago Ozone FIP	Meyercord	08/12/94
Illinois	VOM	Chicago Ozone FIP	Wallace	09/24/92
Illinois	VOM	Chicago Ozone FIP	General Packaging	10/02/92

[1] The General Motors revision is based on materials submitted to USEPA on February 28, 1991 and May 10, 1991, in connection with resolution of *General Motors Corp.* v. *USEPA,* No. 90–2889 (7th Cir.).

USEPA has determined that these FIP revision requests comply with all applicable requirements of the Act and USEPA policy and regulations concerning such revisions. The USEPA, therefore, grants these requests.

Because USEPA considers this action noncontroversial and routine, we are approving it without prior proposal. The action will become effective on May 22, 1995. However, if we receive adverse comments or a request for a public hearing by April 20, 1995, then USEPA will publish a notice that withdraws this action. If no request for a public hearing has been received, USEPA will address the public comments received in the final rule on the requested SIP revision which has been proposed for approval in the proposed rules section of this **Federal Register**. If a public hearing is requested, USEPA will publish a proposed rule announcing a public hearing and reopening the public comment period until 30 days after the public hearing. At the conclusion of this additional public comment period, USEPA will publish a final rule responding to the public comments received and announcing final action.

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 22, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Volatile organic compound, Volatile organic material.

Dated: February 28, 1995.

Carol M. Browner,

Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.741 is amended by adding paragraphs (e)(8), (h)(6), (u)(6), (u)(7), (v)(6), (x)(6), (x)(8), (x)(9), (x)(10), (x)(11), (x)(12) and (x)(13) read as follows:

§ 52.741 Control strategy: Ozone control measures for Cook, Du Page, Kane, Lake, McHenry and Will Counties.

* * * * *

(e) * * *

(8) The control requirements in this paragraph apply to the wood coating line, which coats wooden globe stand components, at Replogle Globes, Inc. (Replogle) Broadview facility in Cook County, Illinois, instead of the control requirements in paragraphs (e)(1) and (e)(2) of this section. Compliance with this paragraph must be demonstrated through the applicable coating analysis test methods and procedures specified in paragraph (a)(4)(i) of this section.

(i) After October 6, 1991, no coatings shall at any time be applied which exceed the following emission limitations for the specified coating.

(A) 6.59 pounds (lbs) Volatile Organic Material (VOM) per gallon of stain (minus water and any compounds which are specifically exempted from the definition of VOM) as applied to coat wooden globe stand components. Such stain consists of #9250 Walnut NGR Stain (RGI #W06000100), #9974 Cherry NGR Stain (RGI #W06003500) and #9943 Ash NGR Stain (RGI #W06003600). The Administrator must be notified at least ten (10) days prior to the use of any replacement stains.

(B) 5.53 lbs VOM per gallon of Sanding Sealer (minus water and any compounds which are specifically exempted from the definition of VOM) as applied to coat wooden globe stand components. Such sealer consists of #15304 High Build Sanding Sealer (RGI #W06003700). The Administrator must be notified at least ten (10) days prior to the use of any replacement sanding sealer.

(C) 5.20 lbs VOM per gallon of lacquer (minus water and any compounds which are specifically exempted from the definition of VOM) as applied to coat wooden globe stand components. Such lacquer consists of #15352 High Build Lacquer (RGI #W06003300). The Administrator shall be notified at least ten (10) days prior to the use of any replacement lacquer.

(ii) After October 6, 1991, the volume of coatings used shall not exceed the following:

(A) 5,000 gallons per year total for all coatings specified in paragraph (e)(8)(i)(A) of this section. The yearly volume of coatings used are to be calculated as follows:

(*1*) Compute the volume of specified coating used each month by the 15th of the following month.

(*2*) By the 15th of each month, add the monthly coating use for the 12 previous months (to obtain the yearly volume of coatings used).

(B) 4,000 gallons per year total for all coatings specified in paragraph (e)(8)(i)(B) of this section. The yearly volume of the coatings used are to be calculated as specified in paragraphs (e)(8)(ii)(A)(1) and (e)(8)(ii)(A)(2) of this section.

(C) 5,000 gallons per year total for all coatings specified in paragraph (e)(8)(i)(C) of this section. The yearly volume of coatings used are to be calculated as specified in paragraphs (e)(8)(ii)(A)(1) and (e)(8)(ii)(A)(2) of this section.

(iii) Beginning on October 6, 1991, the owner and operator of the Replogle Globes, Inc. plant in Broadview, Illinois shall keep the following records for each month. All records shall be retained at Replogle Globes, Inc. for three (3) years and shall be made available to the Administrator on request.

(A) the name and identification number of each coating as applied on any wood coating line.

(B) The weight of VOM per volume (determined in accordance with the procedures in paragraph (a)(4)(i) of this section) and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each month on any wood coating line.

* * * * *

(h) * * *

(6) The control and recordkeeping and reporting requirements, as well as the test methods in this paragraph, apply to the rotogravure and flexographic presses at General Packaging Products, Inc.'s (GPP) plant in Chicago, Illinois, instead of the requirements in 40 CFR 52.741(h)(1) through 40 CFR 52.741(h)(5).

(i) After July 1, 1992, no inks or other volatile organic material (VOM) containing materials shall at any time be applied or used which have a higher percent VOM by weight than the following:

(A) 8 percent VOM by weight for waterbased inks as applied on GPP's presses.

(B) 82 percent VOM by weight for solvent based inks as applied on GPP's presses.

(C) 100 percent VOM by weight for all other VOM containing materials (besides inks) as used on GPP's presses.

(ii) After July 1, 1992, the weight of ink and other VOM containing materials used shall not exceed the following:

(A) 200,000 pounds per year total for all waterbased inks, as applied (including dilution material). The yearly weight of waterbased inks used is to be calculated according to the procedure in paragraph (h)(6)(iii) of this section.

(B) 100,008 pounds per year total for all solvent based inks, as applied (including dilution material). The yearly weight of solvent based inks used is to be calculated according to the procedure in paragraph (h)(6)(iii) of this section.

(C) 100,000 pounds per year total (based upon the formulation of the material as it is used on the presses) for all other VOM containing materials (besides inks). The yearly weight of other VOM containing materials is to be calculated according to the procedure in paragraph (h)(6)(iii) of this section.

(iii) The yearly weight of ink/material used is to be calculated as follows:

(A) Compute the weight of ink/material used each month by the 15th of the following month.

(B) By the 15th of each month, add the monthly ink/material usage for the 12 previous months (to obtain the yearly weight of ink/material used).

(iv) Beginning on July 1, 1992, the owner and operator of GPP's plant in Chicago, Illinois, shall keep the following records for each month. All records shall be retained at GPP for 3 years and shall be made available to the Administrator on request:

(A) The name and identification number of each waterbased ink, each solvent based ink, and each other VOM containing material as applied or used on any press.

(B) The pounds of waterbased ink as applied on all presses for each month and the percent VOM by weight for each waterbased ink as applied on any press for each month.

(C) The pounds of solvent based ink as applied on all presses for each month and the percent VOM by weight for each solvent based ink as applied on any press for each month.

(D) The pounds of other (non-ink) VOM containing material used on all presses for each month and the percent VOM by weight for each (non-ink) VOM containing material as used on any press for each month.

(v) Any record showing a violation of paragraph (h)(6)(i) or (h)(6)(ii) of this section shall be reported by sending a copy of such record to the Administrator within 30 days of the violation.

(vi) To determine compliance with paragraphs (h)(6)(i) and (h)(6)(ii) of this section and to establish the records required under paragraph (h)(6)(iv) of this section the percent VOM by weight of each ink and other VOM containing material shall be determined by the applicable test methods and procedures specified in paragraph (a)(4) of this section.

* * * * *

(u) * * *

(6) The control requirements in this paragraph apply to the adhesive globe coating operations at Replogle's Broadview facility in Cook County, Illinois, instead of the control requirements in paragraph (u)(3) of this section.

(i) After October 6, 1991, no coatings shall at any time be applied which exceed the following emission limitations for the specified coating.

(A) 7.0 lbs VOM per gallon of adhesive coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied to coat globes. Such coating consists of #7879446 Methylene Chloride (RGI #01004100). The Administrator shall be notified at least ten (10) days prior to the use of any replacement adhesive for coating globes.

(B) [Reserved]

(ii) After October 6, 1991, the volume of coatings used shall not exceed the following:

(A) 572 gallons per year total for all coatings specified in paragraph (u)(6)(i)(A) of this section. The yearly volume of coatings used are to be calculated as follows:

(*1*) Compute the volume of specified coating used each month by the 15th of the following month.

(*2*) By the 15th of each month, add the monthly coating use for the 12 previous months (to obtain the yearly volume of coatings used).

(B) [Reserved]

(iii) Beginning on October 6, 1991, the owner and operator of the Replogle Globes, Inc. plant in Broadview, Illinois shall keep the following records for each month. All records shall be retained at Replogle Globes, Inc. for three (3) years and shall be made available to the Administrator on request:

(A) The name and identification number of each coating as applied on any adhesive globe coating line.

(B) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each month on any adhesive globe coating line.

(7) The control requirements in this paragraph apply to the glass candle container coating line(s) and silk screening machines at the Candle Corporation of America (CCA), Chicago, Illinois facility, instead of the control requirements in paragraph (u)(3) of this section.

(i) After June 1, 1992, no coatings or inks shall at any time be applied, at any coating or ink applicator, which exceed the following emission limitations for the specified coating or ink.

(A) 6.04 pounds (lbs) volatile organic material (VOM) per gallon of clear lacquer/varnish (minus water and any compounds which are specifically exempted from the definition of VOM) as applied to coat glass candle containers. Such clear lacquer/varnish (multi-color) is identified as LP3500. The Administrator must be notified at least 10 days prior to the use of any replacement clear lacquers/varnishes.

(B) 5.23 lbs VOM per gallon of translucent coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied to coat glass candle containers. Such translucent coating (multi-color) is identified as LP3603. The Administrator must be notified at least 10 days prior to the use of any replacement translucent coatings.

(C) 5.84 lbs VOM per gallon of white lacquer (minus water and any compounds which are specifically exempted from the definition of VOM) as applied to coat glass candle containers. Such white lacquer is identified as LP3507. The Administrator must be notified at least 10 days prior to the use of any replacement white lacquers.

(D) 3.40 lbs VOM per gallon of fast dry enamel silk screen printing ink (minus water and any compounds which are specifically exempted from the definition of VOM) as applied to print onto glass candle containers.

(ii) After June 1, 1992, the volume of coating and ink used shall not exceed the following:

(A) 2,164 gallons per month total for all coatings specified in paragraph (u)(7)(i)(A) of this section.

(B) 369 gallons per month total for all coatings specified in paragraph (u)(7)(i)(B) of this section.

(C) 49 gallons per month total for all coatings specified in paragraph (u)(7)(i)(C) of this section.

(D) 50 gallons per month total for all inks specified in paragraph (u)(7)(i)(D) of this Section.

(iii) Beginning on June 1, 1992, the owner and operator of CCA's plant in Chicago, Illinois, shall keep the following records for each month. All records shall be retained at CCA for 3 years and shall be made available to the Administrator on request.

(A) The name and identification number of each coating and ink as applied on any glass candle container coating line or silk screening machine.

(B) The weight of VOM per volume and the volume of each coating and ink (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each month on any glass candle container coating line or silk screening machine.

(iv) After June 1, 1992, no more than 100 gallons per month of cleaning solvent is allowed to be used on the glass candle container coating line(s) at CCA. The only cleaning solvents allowed for use are acetone (identified as LP3525) and methyl ethyl ketone (identified as LP3520). Beginning on June 1, 1992, CCA shall keep monthly records of the type and volume of all cleaning solvents used. All such records shall be retained at CCA for 3 years and shall be made available to the Administrator on request.

(v) After June 1, 1992, no more than 50 gallons per month of cleaning solvent is allowed to be used on the glass candle container silk screening machines at CCA. The only cleaning solvent allowed for use is petroleum naphtha (identified as light aromatic naphtha with 7.28 lbs VOM per gallon, minus water and any compounds which are specifically exempted from the definition of VOM). Beginning on June 1, 1992, CCA shall keep monthly records of the type and volume and the weight of VOM per volume (minus water and any compounds which are specifically exempted from the definition of VOM) of all cleaning solvents used on the glass candle container silk screening machines. All such records shall be retained at CCA for 3 years and shall be made available to the Administrator on request.

* * * * *

(v) * * *

(6) The control requirements in this paragraph apply to the 7 blenders and 3 moguls of the adhesive coating solution formulation (compounding) operations at the Minnesota Mining and Manufacturing Corporation's (3M) Bedford Park facility in Cook County, Illinois, instead of the control requirements in paragraph (v)(3) of this section.

(i) After September 1, 1991, the following operating restrictions shall apply to 3M's Bedford Park, Illinois, compounding operations.

(A) The combined operating hours for all blenders shall not exceed 8,400 hours per quarter (rolled on a monthly basis). The combined quarterly operating hours of all blenders are to be calculated as follows:

(*1*) By the 15th of each month, compute the combined monthly operating hours of all blenders during the previous month.

(*2*) By the 15th of each month, add the monthly operating hours of all blenders for the 3 previous months (to obtain the combined quarterly operating hours of all blenders).

(B) The combined operating hours for all moguls shall not exceed 4,200 hours per quarter (rolled on a monthly basis). The quarterly operating hours of all moguls are to be calculated as follows:

(*1*) By the 15th of each month, compute the combined monthly operating hours of all moguls during the previous month.

(*2*) By the 15th of each month, add the monthly operating hours of all moguls for the 3 previous months (to obtain the combined quarterly operating hours of all moguls).

(ii) Beginning on September 1, 1991, the owner and operator of the 3M Bedford Park Plant in Bedford Park, Illinois, shall keep the following records. These records shall be compiled on a monthly basis, be retained at the 3M facility for a period of 3 years, and be made available to the Administrator upon request.

(A) Separate monthly records for each of the 7 blenders identifying each batch and the length of each batch as well as the total monthly hours of operation for all blenders.

(B) Separate monthly records for each of the 3 moguls identifying each batch and the length of each batch as well as the total monthly hours of operation for all moguls.

* * * * *

(x) * * *

(6) The control requirements in this paragraph apply to the varnish operations at the General Motors Corporation, Electro-Motive Division Plant (GMC Electro-Motive), LaGrange, Illinois, instead of the control requirements in paragraph (x)(3) of this section.

(i) After July 1, 1991, no coatings shall at any time be applied which exceed the following emission limitations for the specified coating.

(A) 8.0 lbs VOM per gallon of coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied at each coating applicator to coat Nomex rings. Such coating consists of Monsanto Skybond 705 Polyamide Resin (EMD P/N 9088817) and diluents. The Administrator must be notified at least 10 days prior to the use of any replacement coating(s) and/or diluents for coating Nomex rings.

(B) 6.8 lbs VOM per gallon of coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied at

each coating applicator for any coatings not specified in paragraph (x)(6)(i)(A) of this section.

(ii) After July 1, 1991, the volume of coatings used shall not exceed the following:

(A) 600 gallons per year total for all coatings specified in paragraph (x)(6)(i)(A) of this section. The yearly volume of coatings used are to be calculated as follows:

(1) Compute the volume of specified coating used each month by the 15th of the following month.

(2) By the 15th of each month, add the monthly coating use for the 12 previous months (to obtain the yearly volume of coatings used).

(B) 28,500 gallons per year total for all coatings other than those specified in paragraph (x)(6)(i)(A) of this section. The yearly volume of coatings used are to be calculated as specified in paragraphs (x)(6)(ii)(A)(1) and (x)(6)(ii)(A)(2) of this section.

(iii) Beginning on July 1, 1991, the owner and operator of the General Motors Corporation Electro-Motive Division Plant in LaGrange, Illinois shall keep the following records for each month. All records shall be retained at General Motors for 3 years and shall be made available to the Administrator on request.

(A) The name and identification number of each coating as applied on any coating line within the varnish operation.

(B) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each month on any coating line within the varnish operation.

* * * * *

(8) The control and recordkeeping requirements in this paragraph apply to the silk screen presses and associated ovens, cleaning operations and laminators at Parisian's Novelty Company (Parisian), Chicago, Illinois, facility, instead of the control requirements in paragraphs (x)(8) (u)(3) and (x)(3) of this section and the recordkeeping requirements in paragraph (x)(8)(y) of this section.

(i) After March 1, 1993, no coatings or inks shall at any time be applied, at any coating or ink applicator, which exceed the following emission limitations for the specified coating or ink.

(A) 6.65 pounds (lbs) volatile organic material (VOM) per gallon of ink (minus water and any compounds which are specifically exempted from the definition of VOM) as applied on Parisian's silk screen presses.

(B) 6.4 lbs VOM per gallon of adhesive coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied on Parisian's laminators. Such adhesive is identified as MIX #963.

(ii) After March 1, 1993, the volume of coating and ink used shall not exceed the following:

(A) 2,556 gallons per year total for all inks. The yearly volume of inks used is to be calculated as follows:

(*1*) Compute the volume of ink used each month by the 15th of the following month.

(*2*) By the 15th of each month, add the monthly ink usage for the 12 previous months (to obtain the yearly volume of ink used).

(B) 780 gallons per year total for all coatings specified in paragraph (x)(8)(i)(B) of this section. The yearly volume of coatings used are to be calculated as specified in paragraphs (x)(8)(ii)(A)(*1*) and (x)(8)(ii)(A)(*2*) of this section.

(iii) Beginning on March 1, 1993, the owner and operator of Parisian's plant in Chicago, Illinois, shall keep the following records for each month. All records shall be retained at Parisian for 3 years and shall be made available to the Administrator on request.

(A) The name and identification number of each coating as applied on any laminator.

(B) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each month on any laminator.

(C) The weight of VOM per volume and the volume of each type of ink (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each month on any screen press.

(iv) After March 1, 1993, no more than 84 gallons per year of denatured alcohol may be used for cleaning labels at Parisian. The yearly volume of denatured alcohol used is to be calculated as specified in paragraphs (x)(8)(ii)(A)(*1*) and (x)(8)(ii)(A)(*2*) of this section. Beginning on March 1, 1993, Parisian shall keep monthly records of the type, volume, and VOM content of all solvents used for label cleaning. These records shall be retained at Parisian for 3 years and shall be made available to the Administrator on request.

(v) After March 1, 1993, no more than 7,932 gallons per year of screen wash #956 may be used on Parisian's screen cleaner. The yearly volume of screen wash #956 used is to be calculated as specified in paragraphs (x)(8)(ii)(A)(*1*) and (x)(8)(ii)(A)(*2*) of this section. Beginning on March 1, 1993, Parisian shall keep monthly records of the type, volume, and VOM content of all cleaning compounds used on Parisian's screen cleaner. These records shall be retained at Parisian for 3 years and shall be made available to the Administrator on request.

(vi) After March 1, 1993, only those cleaners specifically identified in paragraphs (x)(8)(iv) and (x)(8)(v) of this section may be used at Parisian.

(9) The control requirements in this paragraph apply to the process sources listed in paragraph (x)(9)(i)(A) of this section at the Nalco Chemical Company facility in Bedford Park, Illinois, instead of the control requirements in paragraph (x)(3) of this section.

(i) *Production and Operation Restrictions.*

(A) On and after October 1, 1992, the maximum volatile organic compound (VOC) emissions per batch, the 12-month rolling average number of batches per year, and the peak limit of batches per month shall not exceed the following limits:

Source	Maximum VOC emissions, lb/batch	12-mo. rolling average limit batch/yr	Peak batch limit, batch/month
(*1*) System 1 charge	0.16	280	33.
System 1 purge	1.35		
(*2*) 24–T–156, 157	2.60	300	33.
(*3*) 28–T–217, 234	0.23	402	45.
(*4*) 28–T–214–216	5.70	603	65.
(*5*) 20–R–182, 185	0.02	72	8.
(*6*) 20–R–130	0.07	340	38.
(*7*) 20–R–155	0.21	254	29.

Source	Maximum VOC emissions, lb/batch	12-mo. rolling average limit batch/yr	Peak batch limit, batch/month
(*8*) 20–WT–174	0.21	254	29.
(*9*) 12–T–97–99	4.6E–4 lb/hr	8,760 hr/yr	744 hr/mo.
(*10*) 12–T–95	4.0E–6 lb/hr	8,760 hr/yr	744 hr/mo.
(*11*) 12–T–96	7.7E–5 lb/hr	8,760 hr/yr	744 hr/mo.
(*12*) 12–T–67, 73	0.003 lb/hr	8,760 hr/yr	744 hr/mo.
(*13*) 20–T–121–122	0.85	312	34.
(*14*) 20–T–123–125	5.4	616	68.
(*15*) 20–T–140, 142	8.0	600	65.
(*16*) 20–T–159	0.31	416	46.
(*17*) 20–R–193, 200	9.8	540	59.
(*18*) 32–R–300	0.18	365	41.
(*19*) 32–T–302	0.21	365	41.
(*20*) 32–T–304	0.21	730	81.
(*21*) 32–T–314	0.23	365	41.
(*22*) 32–T–322	0.21	365	41.
(*23*) 32–T–328	0.23	365	41.
(*24*) 10–T–61	0.001	365—containing organic	31—containing organic.
(*25*) 24–T–441, 166	0.12	730	81.
(*26*) 25–T–284, 440, 443–444.	0.28	730	81.
(*27*) 25–T–170	4E–6	104	12.
(*28*) Tank truck loading	0.12 lb/truck	1,600 trucks/yr	134 trucks/mo.
(*29*) System 2	0.36	280	33.
(*30*) System 4	2.88	280	33.
(*31*) 25–R–164	0.10	365	41.
(*32*) 25–R–205	0.14	365	41.
(*33*) Drum station	3.51	1,005	110.
(*34*) V–4SAC	1.56	254	29.
(*35*) 20–CT–155	13.90	254	29.
(*36*) 12–SE–100	1.10 lb/hr	8,760 hr/yr	744 hr/mo.
(*37*) Drum exhaust hood A	1.00	365—involving use of organic material	31—involving use of organic material.
(*38*) 24–T–230	0.98	730	81.
(*39*) 8–CT–1	0.002 lb/hr	8,760 hr/yr	744 hr/mo.
(*40*) 9–CT–1	0.002 lb/hr	8,760 hr/yr	744 hr/mo.
(*41*) 10–CT–1	0.005 lb/hr	8,760 hr/yr	744 hr/mo.
(*42*) 22–CT–1	0.003 lb/hr	8,760 hr/yr	744 hr/mo.
(*43*) 25–CT–1	0.005 lb/hr	8,760 hr/yr	744 hr/mo.
(*44*) 25–CT–2	0.002 lb/hr	8,760 hr/yr	744 hr/mo.
(*45*) 29–CT–1	0.002 lb/hr	8,760 hr/yr	744 hr/mo.
(*46*) 32–CT–1	0.005 lb/hr	8,760 hr/yr	744 hr/mo.
(*47*) 36–CT–1	0.002 lb/hr	8,760 hr/yr	744 hr/mo.
(*48*) 32–T–325	0[a]	365	41.
(*49*) 26–R–195	0.1[a]	365	41.
(*50*) Continuous polymer-blending.	0.1 lb/hr[a]	2,000 hr/yr	
(*51*) Portafeed washer booth 1.	0.84 lb/hr[b]	4,160 hr/yr	744 hr/mo.
(*52*) Portafeed washer booth 2.	0.84 lb/hr[b]	8,736 hr/yr	744 hr/mo.
(*53*) 32–T–392	4.4E–7	104	12.

[a] Assumed value.
[b] Based on monitoring data.

(B) The following equation shall be used to calculate maximum VOC emissions per batch for the process sources listed in paragraphs (x)(9)(i)(A)(*1*) (charge only and (*2*) through (*28*) and (*53*) of this section: Where:

$$ER(lb/batch) = \frac{Q_O(gal/batch) \times M_V(lb/mole) \times P(mmHg)}{constant_1([gal][mmHg]/mole)}$$

ER = VOC emission rate;

Q_o = Quantity of organic per batch or charge rate;

M_v = Molecular weight of the volatile component;

P = Partial pressure of the volatile component for mixtures of liquid made up with more than one chemical; or vapor pressure for pure liquids made up of only one organic chemical; and

Constant $_1$ = (7.45 gal/ft^3)x(385 ft^3/mole)x(760 mmHg).

(C) The following equation shall be used to calculate the VOC emissions per batch from the process sources listed in paragraph (x)(9)(i)(A)(*1*) of this section

(purge only) and (*29*) through (*32*) of this section:

$$ER(lb/batch) = \frac{PR(ft^3/batch) \times M_V(lb/mole) \times P(mmHg)}{constant_2([ft^3][mmHg]/mole)}$$

Where:

PR=Nitrogen purge rate; and

Constant $_2$ = (385 ft^3/mole)x(760 mmHg).

(D) The following equation shall be used to calculate the VOC emissions per batch from the drum station listed at paragraph (x)(9)(i)(A)(*33*) of this section:

ER(1b/batch) = (0.40 x [$ER_{28\text{-}T\text{-}217\text{-}218}$])+(0.60 x [$ER_{28\text{-}T\text{-}214\text{-}216}$])

(E) The following equation shall be used to calculate the VOC emissions per batch from the V–4SAC listed at paragraph (x)(9)(i)(A)(*34*) of this section:

$$ER(lb/batch) = \frac{FR_{1mmHg}(lb/batch) \times M_V(lb/mole) \times P_{V2}(mmHg)}{M_a(lb/mole) \times (760 - P_{V2})(mmHg)}$$

Where:

FR_{1mmHg} = Maximum air flow rate to maintain 1 mmHg;

M_a = Molecular weight of air; and

P_{v2} = Vapor pressure of organic at 65 °F and 760 mmHg.

(F) The following equation shall be used to calculate the VOC emissions per batch from 20–CT–155 listed at paragraph (x)(9)(i)(A)(*35*) of this section:

$$ER(lb/batch) = \left[ER_{tot}(lb/hr) - ER_{V-4SAC}(lb/hr)\right] \times hr/batch$$

Where:

ER_{tot} = Total system emission rate calculated using the following equation:

$$ER_{tot}(lb/hr) = \frac{FR_{1mmHg}(lb/hr) \times M_V(lb/mole) \times P_{V1}(mmHg)}{M_a(lb/mole) \times (350 - P_{V1})(mmHg)}$$

Where:

P_{v1} = Vapor pressure of organic at 200 °F and 350 mmHg.

(G) The following equation shall be used to calculate the VOC emissions per hour from 12–SE–100 listed at paragraph (x)(9)(i)(A)(*36*) of this section:

ER(lb/hr) = Evap (gm/cm^{2}sec) × area (cm^2) × 3600 sec/hr

Where:

Evap = Evaporation rate from a surface 8.93 cm × 8.9 cm (lb/[cm^2] [sec]) calculated using the following equation:

$Evap = 10^{-7} M_v^{0.71} \times [0.034 (P_e - P_d)^{1.25} + 156 (P_e - P_d)]$

Where:

P_e = Partial pressure of the component from the spilled liquid;

P_d = Partial pressure of the component in the incident air stream, assumed to be 0 mmhg; and

Area = Surface area of the liquid.

(H) The following equation shall be used to calculate the VOC emissions per batch from the drum exhaust hood A listed at paragraph (x)(9)(i)(A)(*37*) of this section:

$$ER(lb/batch) = \frac{FR(ft^3/batch) \times M_V(lb/mole) \times P(mmHg)}{constant_2([ft^3][mmHg]/mole)}$$

Where:

FR = Air flow rate.

(I) The following equation shall be used to calculate the VOC emissions per batch from 24–T–230 listed at paragraph (x)(9)(i)(A)(*38*) of this section:

$$ER(lb/batch) = \frac{(V_H - V_A) \times M_V \times PP_{135°F} \times 0.5}{constant_3}$$

Where:

V_H = Head space volume at heated temperature 135°F;

V_A = Head space volume at ambient temperature 68°F;

PP_{135}°F = Partial pressure of volatile component at 135°F.

Constant $_3$ = (434 ft^3/mole)(7.45 gal/ft^3)x(760 mmHg)

(J) The following equations shall be used to calculate the VOC emissions per batch from the process sources listed in paragraph (x)(9)(i) (*39*) through (*47*) of this section:

$$ER_A(1b/yr) = \frac{V_R(gal) \times M_V(lb/mole) \times P(mmHg) \times org}{t(yr) \times constant_1\ ([gal]\ [mmHg]/mole)}$$

$$ER_B(lb/yr) = C_B \times V_T(gal) \times d_B(lb/gal) \times (charges/yr) \times org$$

$$ER_C(lb/yr) = C_C \times Evap(gal/min) \times d_C(lb/gal) \times (min/yr) \times org$$

Where:

V_R = Refill volume;
t = Time between refills;
org = Fraction of organic component in product;
C_B = Concentration of chemical B fed 3 times/week;
$_{VT}$ = Tower volume;
d_B = Density of chemical B;
C_C = Concentration of chemical C fed continuously;
Evap = Evaporation rate; and
d_c = Density of chemical C.

(K) The number of batches for each process source shall be calculated as follows:

(*1*) Compute the monthly number of batches for each process source by the 15th day of the following month.

(*2*) By the 15th day of each month, add the monthly number of batches for each process source for the 12 previous months to obtain the total number of batches per year.

(ii) *Recordingkeeping.*

(A) On and after October 1, 1992, the owner and operator of the Nalco Chemical Company facility in Bedford Park, Illinois, shall keep the following records for all process sources listed in paragraphs (x)(9)(i)(A) (*1*) through (*53*) of this section. These records shall be maintained for the units specified in paragraphs (x)(9)(i) (A) through (K) of this section, be compiled on a monthly basis, be retained at the facility for a period of 3 years, and be made available to the Administrator upon request.

(B) [Reserved]

(*1*) Calculations of the pounds per batch or pounds per hour (as appropriate) for each batch for each process source. This includes the information necessary for each calculation.

(*2*) The monthly number of batches for each process source.

(*3*) The total number of batches per year for the 12 previous months for each process source.

(10) The control requirements in this paragraph apply to the storage tanks listed in paragraph (x)(10)(i)(A) of this section at the Nalco Chemical Company facility in Bedford Park, Illinois, instead of the control requirements in paragraph (x)(3) of this section.

(i) *Production and Operation Restrictions.*

(A) On and after October 1, 1992, the product of the molecular weight of vapor in each storage tank (M_v), the true vapor pressure at bulk liquid conditions for each tank (P), and the paint factor (F_p); the storage tank maximum yearly throughput for each tank; and the maximum monthly throughput for each tank shall not exceed the following limits:

Tank No.	$M_V \times P \times F_p$, (lb) (mmhg)/lb-mole	Yearly throughput, gal/yr	Monthly throughput, gal/month
(*1*) 24–T–147	45.4	56,250	4,688
(*2*) 24–T–150	227	266,450	22,204
(*3*) 24–T–151	227	266,450	22,204
(*4*) 24–T–158N	18.9	173,830	14,486
(*5*) 24–T–158C	18.0	110,190	9,183
(*6*) 24–T–158S	1.17	52,010	4,334
(*7*) 24–T–160	226.8	266,450	22,204
(*8*) 24–T–161	227	182,450	15,204
(*9*) 24–T–162	473	93,900	7,825
(*10*) 20–T–101	3.72	90,290	7,525
(*11*) 20–T–102	1.80	122,900	10,242
(*12*) 20–T–103	420	23,960	1,997
(*13*) 20–T–104	180	475,900	39,659
(*14*) 20–T–105	370	52,360	4,363
(*15*) 20–T–106	1,210	623,100	51,926
(*16*) 20–T–107	294	90,040	7,503
(*17*) 20–T–108	1,360	81,470	6,789
(*18*) 20–T–109	1,390	167,060	13,922
(*19*) 20–T–153	180	35,000	2,917
(*20*) 20–T–131 [a]	.....	.....	.....
(*21*) 20–T–132 [a]	.....	.....	.....
(*22*) 20–T–133 [a]	.....	.....	.....
(*23*) 20–T–134 [a]	.....	.....	.....
(*24*) 20–T–135 [a]	.....	.....	.....
(*25*) 20–T–136	29.5	307,710	26,580
(*26*) 20–T–137 [a]			

Tank No.	$M_V \times P \times F_P$, (lb) (mmhg)/ lb-mole	Yearly throughput, gal/yr	Monthly throughput, gal/month
(*27*) 20–T–138	29.5	307,710	26,580
(*28*) 32–T–305	288	785,550	65,462
(*29*) 32–T–306	66.5	165,350	13,779
(*30*) 32–T–307	66.5	294,750	24,563
(*31*) 32–T–308	66.5	128,470	10,706
(*32*) 32–T–310	66.5	77,290	6,441
(*33*) 32–T–311	66.5	182,130	15,177
(*34*) 32–T–319	50.0	688,950	57,413
(*35*) 32–T–320	50.0	688,950	57,413
(*36*) 32–T–326	70.0	248,440	20,703
(*37*) 32–T–331	70.0	489,540	40,795
(*38*) 32–T–332	70.0	70,380	5,865
(*39*) 32–T–333	70.0	270,850	22,571
(*40*) 32–T–334	70.0	210,610	18,267
(*41*) 32–T–335	70.0	418,200	34,850
(*42*) 32–T–336	70.0	632,460	52,706
(*43*) 32–T–337	798	53,850	4,488
(*44*) 17–T–206	27,000	300,760	25,063
(*45*) 17–T–208	27,000	300,760	25,063
(*46*) 17–T–207	2.48	180,180	15,016
(*47*) 17–T–209	2.48	180,180	15,016
(*48*) 24–T–515	331	216,860	18,072
(*49*) 25–T–282	1.42	1,920,410	160,034
(*50*) 25–T–283	1.42	1,920,410	160,034
(*51*) 24–T–442	18.0	90,990	7,583
(*52*) 17–T–210	47.9	582,990	48,583
(*53*) 17–T–211	47.9	582,990	48,583
(*54*) 17–T–212	508	728,420	60,702
(*55*) 17–T–213	508	728,420	60,702
(*56*) 17–T–401	50.0	131,970	10,998
(*57*) 17–T–402	15.0	120,160	10,014
(*58*) 17–T–403	6.20	127,770	10,648
(*59*) 17–T–404	26.5	1,601,510	133,460
(*60*) 17–T–405	50.0	113,830	9,486
(*61*) 17–T–406	40.0	231,030	19,253
(*62*) 17–T–407	206	135,180	11,265
(*63*) 17–T–409	395	327,410	27,285
(*64*) 17–T–410	395	129,290	10,774
(*65*) 17–T–411	50.0	213,870	17,843
(*66*) 17–T–412	50.0	277,840	23,153
(*67*) 17–T–414	50.0	72,920	6,077
(*68*) 17–T–415	50.0	56,140	4,678
(*69*) 17–T–416	395	393,550	32,796
(*70*) 17–T–417	23.4	233,780	19,482
(*71*) 17–T–418	115	873,270	72,773
(*72*) 17–T–419	119	278,460	23,205
(*73*) 17–T–420	112	730,780	60,898
(*74*) 17–T–421	25.2	300,010	25,001
(*75*) 17–T–422	115	873,270	72,773
(*76*) 17–T–423	23.4	215,060	17,922
(*77*) 17–T–424	23.4	209,610	17,468
(*78*) 26–T–218	50.0	64,890	5,408
(*79*) 26–T–219	1.50	197,900	16,492
(*80*) 26–T–220	2,460	160,020	13,336
(*81*) 26–T–221	50.0	74,820	6,235
(*82*) 26–T–222	80.0	66,590	5,550
(*83*) 26–T–224	4.80	225,290	18,774
(*84*) 26–T–225	50.0	36,610	3,051
(*85*) 26–T–226	294	47,390	3,949
(*86*) 26–T–227	50.0	63,040	5,253
(*87*) 26–T–228	500	136,150	11,346
(*88*) 26–T–229	50.0	112,970	9,414
(*89*) 26–T–231	23.4	319,610	26,634
(*90*) 26–T–232	117	564,280	47,024
(*91*) 26–T–233	23.4	539,700	44,975
(*92*) 27–T–245	21.6	361,970	30,165
(*93*) 27–T–246	348	141,820	11,818
(*94*) 27–T–247	23.4	71,670	5,972
(*95*) 27–T–248	198	96,010	8,001
(*96*) 27–T–249	927	51,240	4,270
(*97*) 27–T–250	110	433,030	36,086
(*98*) 27–T–251	396	45,440	3,787

Tank No.	$M_V \times P \times F_P$, (lb) (mmhg)/ lb-mole	Yearly throughput, gal/yr	Monthly throughput, gal/month
(*99*) 27–T–252	21.6	171,370	14,281
(*100*) 27–T–253	348	237,900	19,825
(*101*) 26–T–192	10.0	117,950	9,829
(*102*) 27–T–278	0.62	74,910	6,243
(*103*) 27–T–279	0.18	583,760	48,647
(*104*) 27–T–285	21.6	459,530	38,294
(*105*) 27–T–286	21.6	459,530	38,294
(*106*) 25–T–201	19.8	143,550	11,963
(*107*) 32–T–388	0.07	499,340	41,612
(*108*) 32–T–389	0.07	499,340	41,612
(*109*) 32–T–390	288	808,310	583,340
(*110*) 32–T–391	1.42	800,00	583,340

[a] Tank not in use.

(B) The throughput shall be calculated as follows:

(*1*) Compute the monthly throughput for each tank by the 15th day of the following month.

(*2*) By the 15th day of each month, add the monthly throughputs for the 12 previous months to obtain the yearly throughput.

(ii) *Recordkeeping.* (A) On and after October 1, 1992, the owner and operator of the Nalco Chemical Company facility in Bedford Park, Illinois, shall keep the following records for all storage tanks. These records shall be compiled on a monthly basis, be retained at the facility for a period of 3 years, and be made available to the Administrator upon request.

(*1*) The molecular weight of vapor in each storage tank (M_v), the true vapor pressure at bulk liquid conditions for each tank (P), the paint factor (F_p), and their product. F_p shall be determined from Table 4.3–1 of ''Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources,'' AP–42, September 1985.

(*2*) The monthly throughput.

(*3*) The total throughput per year for the 12 previous months.

(B) [Reserved].

(iii) *Test Methods.* (A) The true vapor pressure at bulk liquid temperature shall be determined by using the procedures specified in paragraph (a)(8) of this section.

(B) The molecular weight of vapor in the storage tank shall be determined by using Table 4.3–2 ''Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources,'' AP–42, September 1985, or by analysis of vapor samples. Where mixtures of organic liquids are stored in a tank, M_v shall be estimated from the liquid composition using the following equation:

$$M_v = M_a \frac{P_a X_a}{P_t} + M_b \frac{P_b X_b}{P_t}$$

Where:

M_a=Molecular weight of pure component a;

P_a=Vapor pressure of pure component a;

X_a=Mole fraction of pure component a in the liquid;

M_b=Molecular weight of pure component b;

P_b=Vapor pressure of pure component b;

X_b=Mole fraction of pure component b in the liquid; and

$P_t = P_a X_{2+} P_b X_b$.

(11) The control requirements in this paragraph apply to the fugitive emission sources listed in paragraph (x)(11)(i)(A) of this section at the Nalco Chemical Company facility in Bedfore Park, Illinois, instead of the control requirements in paragraph (x)(3) of this section.

(i) *Production and Operation Restrictions.*

(A) On and after October 1, 1992, all components (e.g., pumps, valves, flanges, pressure relief valves (PRV's), and open end lines) at the specified locations (e.g., Building 32—Tube Reactor System, etc.), and in the specified type of service (e.g., heavy liquid stratified, light liquid stratified, etc.) shall be limited by the maximum monthly hours in the following table:

(ii) *Recordkeeping.*

(A) On and after October 1, 1992, the owner and operator of the Nalco Chemical Company facility in Bedford Park, Illinois, shall keep the following records for all fugitive emission sources. These records shall be compiled on a monthly basis, be retained at the facility for a period of 3 years, and be made available to the Administrator upon request.

(*1*) The total number of hours of organic service for each component at each location specified in paragraphs (x)(11)(i)(A) (*1*) through (*10*) of this section.

(*2*) The vapor pressure of each organic compound in each component at each location specified in paragraphs (x)(11)(i)(A) (*1*) through (*10*) of this section.

(B) [Reserved]

(12) The control and recordkeeping and reporting requirements, as well as the test methods in this paragraph, apply to the gravure and screen press operations at the Meyercord Corporation (Meyercord) in Carol Stream, Illinois, instead of the requirements in paragraphs (x)(1) through (x)(5) of this section.

(i) After July 1, 1991, no materials which contain volatile organic material (VOM), including coatings, inks, and cleaning material, may be used at any gravure or screen press unless the total VOM emissions remain below 100 tons of VOM for every consecutive 365-day period, or fraction thereof, starting on July 1, 1991. A new 365-day period starts on each day. The VOM emissions, which are to be calculated on a daily basis, are to be added to the VOM emissions for the prior 364 days (but not including any day prior to July 1, 1991). VOM emissions are based upon the VOM content of the material and the volume of material used. The effect of add-on control equipment is not considered in calculating VOM emissions; that is, the VOM emissions are to be determined as if the press(es)

do(es) not have add-on control equipment. The applicable test methods and procedures specified in paragraph (a)(4) of this section are to be used in determining daily VOM emissions.

(ii) The VOM content of each coating, ink, and cleaning solution shall be determined by the applicable test methods and procedures specified in paragraph (a)(4) of this section to establish the records required under paragraph (x)(12)(ii) of this section. Beginning on July 1, 1991, the owner or operator of the subject presses shall collect and record all of the following information each day and maintain the information at the facility for 3 years:

(A) The name and identification number of each coating, ink, and cleaning solution as applied on any press.

(B) The pounds (lbs) of VOM per gallon of each coating, ink, and cleaning solution (minus water and any compounds which are specifically exempted from the definition of VOM) as applied on any press.

(C) The total gallons of each coating, ink, and cleaning solution (minus water and any compounds which are specifically exempted from the definition of VOM) used per day.

(D) The total lbs of VOM contained in the volume of each coating, ink, and cleaning solution used per day on any press. The lbs of VOM per day is to be calculated by multiplying the lbs of VOM per gallon (minus water and any compounds which are specifically exempted from the definition of VOM) times the gallons (minus water and any compounds which are specifically exempted from the definition of VOM) used per day.

(E) The total lbs of VOM per day from all coatings, inks, and cleaning solutions used on all presses. The total lbs of VOM per day is to be obtained by adding the lbs of VOM per day contained in all coatings, inks, and cleaning solutions.

(F) Within 7 days after each 365-day period, the VOM emissions (as calculated in paragraph (x)(12)(ii)(E)) of this section before add-on control, from the 365-day period, are to be determined.

Starting on July 7, 1992, VOM emissions are to be determined for the 365 days ending 7 days earlier. Each day concludes a new 365-day period. However, no VOM emissions are to be included for any days prior to July 1, 1991. For example, on July 17, 1991, the emissions from July 1, through July 10, 1991, are to be included, whereas on January 7, 1994, the emissions from January 1, 1993, through December 31, 1993, are to be included.

(13) The control and recordkeeping and reporting requirements, as well as the test methods in this paragraph, apply to the sheet fed cold set presses and web heatset presses at the Wallace Computer Services, Inc. (Wallace) printing and binding plant in Hillside, Illinois, instead of the requirements in 40 CFR 52.741(h) and 40 CFR 52.741(x)(1) through 40 CFR 52.741(x)(5).

(i) After July 1, 1991, no inks shall at any time be applied, at the presses indicated below, which exceed the pounds (lbs) volatile organic material (VOM) per gallon of ink (minus water and any compounds which are specifically exempted from the definition of VOM) limit established for each press. After July 1, 1991, the yearly volume of ink used at each press, in gallons of ink (minus water and any compounds which are specifically exempted from the definition of VOM) per year, shall not exceed the gallons per year limit established below for each press. The yearly volume of ink used per press is to be calculated according to the procedure in paragraph (x)(13)(iii) of this section.

Press	Lbs VOM/ gallon ink	Gallons/ year ink
14	1.68	276
16	1.68	1896
22	3.01	2712
23	3.01	13140
25	3.01	12720
26	3.01	4764

(ii) After July 1, 1991, no materials (other than those inks subject to the limits in paragraph (x)(13)(i)) of this section, shall at any time be applied or used, at the presses indicated below, which exceed the lbs VOM per gallon of material (minus water and any compounds which are specifically exempted from the definition of VOM) limit established for each press. After July 1, 1991, the yearly volume of material (excluding ink and water) used at each press, in gallons of material (minus water and any compounds which are specifically exempted from the definition of VOM) per year, shall not exceed the gallons per year limit established for each press. The yearly volume of material (excluding ink and water) used per press is to be calculated according to the procedure in paragraph (x)(13)(iii) of this section.

Press	Lbs VOM/ gallon mate-rial	Gallons/ year ma-terial
14	6.9	612
16	6.9	8,340
22	7.1	360
23	7.1	480
25	7.1	516
26	7.1	1,848

(iii) The yearly volume of ink/material used is to be calculated as follows:

(A) Compute the volume of ink/material used each month per press by the 15th of the following month.

(B) By the 15th of each month, add the monthly ink/material usage per press for the 12 previous months (to obtain the yearly volume of ink used).

(iv) Beginning on July 1, 1991, the owner and operator of Wallace's plant in Hillside, Illinois, shall keep the following records for each press for each month. All records shall be retained by Wallace for 3 years and shall be made available to the Administrator on request:

(A) The name and identification number of each ink, fountain solution, fountain solution additive, cleaning solvent, and other VOM containing material as applied or used.

(B) The weight of VOM per volume of each ink, fountain solution, fountain solution additive, cleaning solvent, and each other VOM containing material (minus water and any compounds which are specifically exempted from the definition of VOM) as applied or used each month.

(C) The volume of ink (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each month.

(D) The total volume of miscellaneous VOM containing materials (minus water and any compounds which are specifically exempted from the definition of VOM), other than inks, that are used each month.

(v) Any record showing a violation of paragraph (x)(13)(i) or (x)(13)(ii) of this section shall be reported by sending a copy of such record to the Administrator within 30 days of the violation.

(vi) To determine compliance with paragraphs (x)(13)(i) and (x)(13)(ii) of this section and to establish the records required under paragraph (x)(13)(iv) of this section the VOM content of each ink and miscellaneous VOM containing material shall be determined by the applicable test methods and procedures

specified in paragraph (a)(4) of this section.

[FR Doc. 95–6003 Filed 3–20–95; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 799

[OPPTS–42180; FRL 4935–4]

RIN 2070–AB07

Testing Consent Order for Tertiary Amyl Methyl Ether

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Consent Agreement and Order.

SUMMARY: EPA has issued a Testing Consent Order that incorporates an Enforceable Consent Agreement (ECA) pursuant to the Toxic Substances Control Act (TSCA) with members of the TAME Producers Group comprised of the following companies: Amerada Hess Corporation, Chevron U.S.A. Products Company, Citgo Petroleum, Exxon Company U.S.A., and Texaco Refining and Marketing (the Consortium) who have agreed to perform certain health effects tests with tertiary-amyl methyl ether (CAS No. 994–05–8) (TAME). This document summarizes the ECA and adds TAME to the list of chemical substances and mixtures subject to ECAs. Accordingly, export notification requirements apply to TAME.

EFFECTIVE DATE: March 21, 1995.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551. Technical contact: Gary Timm (202) 260–7335.

SUPPLEMENTARY INFORMATION: This document amends 40 CFR 799.5000 by adding TAME to the list of chemical substances and mixtures subject to ECAs and export notification requirements.

I. Background

The Clean Air Act (42 U.S.C. 7401–7671q) provides that beginning on November 1, 1992, gasoline containing at least 2.7 percent oxygen by weight is required to be used in the wintertime in 39 areas of the county which failed to comply with the carbon monoxide (CO) National Ambient Air Quality Standard. Carbon monoxide pollution is caused by incomplete burning of fuels used in internal combustion engines and is generally more severe during cold winter temperatures. Tests have shown that the use of oxygenates in gasoline can reduce CO emissions by 15 to 20 percent (Emission Reduction and Cost Effectiveness of Oxygenated Gasolines. Environmental Protection Agency. June, 3 1991). Methyl tertiary-butyl ether (MTBE) and ethanol are the primary oxygenates used in the oxygenated gasoline program.

MTBE was recommended for health effects testing by the Interagency Testing Committee in its 19th report because of its rapidly growing use as a fuel additive. EPA negotiated an ECA with the Oxygenated Fuel Producers for comprehensive health effects testing in 1988 (53 FR 10391, March 31, 1988). Despite this extensive testing program and experience using MTBE as a gasoline additive, acute health concerns were raised in Alaska and Missoula, MT after MTBE's introduction to these areas in November, 1992. Additional research was conducted by EPA, the American Petroleum Institute (API), and the Oxygenated Fuels Association to address the concerns raised by the citizens of Alaska and assist policy decision making for the next oxyfuel season. These studies, including human exposures, failed to confirm MTBE as the source of the human health complaints.

A meeting between the Federal Government, State of Alaska, and industry to plan additional research on the oxyfuels was held in December, 1993. This group also recommended that baseline toxicity testing information be developed for both ethyl tertiary-butyl ether (ETBE) and TAME, widely seen as possible substitutes for MTBE, to compare their toxic potential with that of MTBE. The research planning workshop recommended the following tests for ETBE and TAME:1st tier genotoxicity, 90–day inhalation subchronic, neurotoxicity developmental toxicity, reproductive effects pharmacokinetics.

On March 1, 1994, EPA's Office of Mobile Sources requested that the Office of Pollution Prevention and Toxics develop these data under section 4 of the Toxic Substances Control Act (TSCA).

II. Enforceable Consent Agreement Negotiations

EPA sent letters to approximately 50 individuals in the petroleum and oxyfuel-related industries announcing the addition of ETBE and TAME to EPA's Master Testing List and EPA's interest in pursuing a testing program under an ECA. On March 9, 1994, API indicated that the industry had agreed to form a testing panel under API auspices to develop and present a testing proposal to EPA on ETBE and TAME. On April 18, 1994, EPA published a notice in the **Federal Register** inviting manufacturers and processors of ETBE and TAME and other interested persons to participate in ECA negotiations on these substances and announced that a public meeting would be held on May 9, 1994.

On behalf of the Consortium, API submitted proposals for testing ETBE and TAME in April. At the May 9 meeting, API stated that there was support among Consortium members to conduct testing of TAME, but not ETBE. The chief difference between the EPA and Consortium positions on testing TAME was the design of the reproductive effects and fertility study. The Consortium proposed only a one-generation study as opposed to the two-generation study recommended by EPA. This issue was resolved in a conference call on July 28, 1994, with the Consortium agreeing to conduct the two-generation study. Members of the Consortium signed an ECA for the testing of TAME in January, 1995; EPA signed the ECA in February, 1995.

Regarding ETBE, after appropriate notification of interested persons, EPA held a public meeting on July 14, 1994, to discuss the development of an ECA for this substance. At that meeting, ARCO, the only current or potential producer in attendance, stated that it had conducted screening tests for mutagenicity but that the company had decided not to enter into an ECA with EPA to conduct additional testing. ETBE thus remains on EPA's Master Testing List in a queue for rulemaking under TSCA section 4.

III. TAME Testing Program

Table I describes the tests, the test standards and reporting requirements For TAME under the ECA. This testing program will allow EPA to better characterize the potential health hazards resulting from exposure to TAME.

TABLE I.— REQUIRED TESTING, TEST STANDARDS AND REPORTING REQUIREMENTS FOR TAME

Description of Tests	Test Standard[1]	Deadline for Final Report[2]	Interim Reports Required[3]
Pharmacokinetics (Inhalation, rats and mice)	795.230 (Appendix I)	20	3
90–Day Subchronic (Inhalation, rats and mice)	798.2450 Amended to include mitogenesis,special staining and immunochemistry (Appendix II)	18	2
Neurotoxicity Screen	795.247 (Appendix III)	20	3
Mutagenicity: CHO HGPRT	798.5300 (Appendix)	15	2
Mutagenicity: Chromosomal aberrations	798.5375 (Appendix)	15	2
Reproduction and Fertility (Inhalation, rats)	OPPTS 870.3800	30	5
Developmental toxicity (Inhalation, rats and mice)	OPPTS 870.3700	15	2

[1]Citation is to 40 CFR unless otherwise noted. The OPPTS 870 series guidelines are available from EPA but have not been published.
[2] Number of months after the effective date of the consent order.
[3] Interim reports are required every 6 months from the effective date until the final report is submitted. This column shows the number of interim reports required for each test.

IV. Export Notification

The issuance of the ECA and Order subjects any persons who export or intend to export the chemical substance TAME (CAS No. 994–05–8), of any purity, to the export notification requirements of section 12(b) of TSCA and the regulations promulgated pursuant to it at 40 CFR part 707. The listing of the chemical substance or mixture at 40 CFR 799.5000 serves as a notification to persons who intend to export such a chemical substance or mixture that the substance or mixture is the subject of an ECA and Order and 40 CFR part 707 applies.

V. Rulemaking Record

EPA has established a record for this ECA and Order under docket number OPPTS–52098, which is available for inspection Monday through Friday, excluding legal holidays, in Rm. NE B607, 401 M St.,SW., Washington, DC., 20460 from 1 p.m. to 4 p.m. Confidential Business Information (CBI), while part of the record, is not available for public review. This record contains the basic information considered in developing this ECA and Order, and includes the following information:

(1) Testing Consent Order for TAME with incorporated Enforceable Consent Agreement and associated testing protocols attached as appendices.

(2) **Federal Register** notice announcing the opportunity to initiate Negotiations for a TSCA Section 4 Testing ECA (April 18, 1994; 59 FR 18399).

(3) Communications consisting of:

(a) Written Letters.

(b) Contact reports of telephone summaries.

(c) Meeting summaries.

(4) Reports -published and unpublished factual materials.

List of Subjects in 40 CFR Part 799

Chemicals, Chemical export, Environmental protection, Hazardous substances, Health effects, Laboratories, Reporting and recordkeeping requirements, Testing.

Dated: March 7, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 799 is amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding tertiary-amyl methyl ether (TAME) to the table in CAS Number order, to read as follows:

§799.5000 Testing consent agreements for substances and mixtures with Chemical Abstract Service Registry Numbers.

* * * * *

CAS Number	Substance or mixture name	Testing	FR Publication Date
*	*	*	*
994–05–8	Tertiary-amyl methyl ether	Health effects	March 21, 1995.
*	*	*	*

[FR Doc. 95–6766 Filed 3–20–95; 8:45 am]
BILLING CODE 6560–50–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 95022357–5057–01; I.D. 120594A]

RIN 0648–AG95

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Pacific Halibut Bycatch

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; final 1995 specification of Pacific halibut bycatch allowances; change of effective date.

SUMMARY: On March 6, 1995, NMFS published a final rule that authorizes NMFS to determine annually whether to apportion a Pacific halibut bycatch allowance to the Bering Sea and Aleutian Islands management area (BSAI) or Gulf of Alaska (GOA) hook-and-line gear fisheries for sablefish, or to exempt these fisheries from halibut bycatch restrictions. Final 1995 halibut bycatch allowances also were specified for the BSAI nontrawl fisheries and GOA hook-and-line gear fisheries that exempted the sablefish hook-and-line gear fisheries from halibut bycatch restrictions. NMFS is changing the effective date of a portion of the final rule from April 3, 1995, to March 15, 1995, to avoid a closure of the GOA sablefish Individual Fishing Quota (IFQ) fishery when it opens on March 15.

EFFECTIVE DATE: Section 672.20(f)(1)(ii) and (f)(3)(ii) of the final rule published March 6, 1995, at 60 FR 12149, are effective March 15, 1995; the remaining portion of the final rule which amends § 675.21 will be effective, April 15, 1995.

FOR FURTHER INFORMATION CONTACT: Susan Salveson, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS published a final rule in the **Federal Register** (60 FR 12149, March 6, 1995) that revises the management of the halibut bycatch limits established for the GOA hook-and-line gear groundfish fisheries and the BSAI nontrawl fisheries. The final rule is scheduled to become effective April 3, 1995, and authorizes the exemption of the GOA and BSAI hook-and-line gear sablefish fisheries from halibut bycatch restrictions to support the new sablefish/halibut IFQ program. The final rule also addresses concern about the potential closure of the BSAI jig gear fishery due to halibut bycatch in other nontrawl fisheries and allows for the management of the seasonal apportionment of the halibut bycatch allowances annually specified for the BSAI Pacific cod hook-and-line gear fishery consistent with the management of the amount of Pacific cod total allowable catch allocated to this fishery. Final 1995 specifications of halibut bycatch allowances were published with the final rule that exempted the GOA and BSAI hook-and-line sablefish fisheries and the BSAI jig gear fishery from halibut bycatch restrictions. The effective date of the final rule was established as the date 30 days after publication in the **Federal Register**, or April 3, 1995.

The 1995 sablefish/halibut IFQ fishery is scheduled to open on March 15, 1995 (60 FR 12152, March 6, 1995). Halibut bycatch mortality in the GOA Pacific cod hook-and-line gear fishery has accrued at a rate higher than anticipated and will reach the first seasonal bycatch mortality allowance currently specified for all GOA hook-and-line gear fisheries (60 FR 8476, February 14, 1995) before the final rule becomes effective on April 3, 1995. As a result, the sablefish IFQ fishery would be closed until this date when the exemption of this fishery from halibut bycatch restrictions becomes effective. NMFS has determined that the closure of the sablefish IFQ fishery due to halibut bycatch in the Pacific cod fishery imposes an unnecessary restriction on the IFQ fishery and directly counters the intent of the final rule and associated 1995 final specifications of halibut bycatch allowances. Therefore, NMFS is waiving a portion of the 30-day delayed effective period so that the final rule authorizing the exemption of the GOA sablefish IFQ fishery from halibut bycatch restrictions becomes effective on March 15, 1995, when the sablefish IFQ fishery opens.

Classification

Implementation of § 672.20(f)(1)(ii) and (f)(3)(ii) of the final rule published in the **Federal Register** March 6, 1995 (60 FR 12149) in a timely manner will avoid an unnecessary closure of the GOA sablefish IFQ fishery. Since implementation of these provisions will relieve a restriction, a 30-day delay in the effective date is not required under 5 U.S.C. 553(d)(1). Therefore, the effective date of the portion of the final rule and associated final 1995 specifications that authorize the exemption of the GOA sablefish IFQ fishery from 1995 halibut bycatch restrictions is changed to March 15, 1995.

This action modifies the effective dates of a final rule that is exempt from review under E.O. 12866.

Dated: March 15, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–6845 Filed 3–15–95; 4:29 pm]
BILLING CODE 3510–22–F

50 CFR Part 675

[Docket No. 950206040–5040–01; 031495A]

Groundfish of the Bering Sea and Aleutian Islands Area; Trawl Rockfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for species in the rockfish fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal bycatch allowance of Pacific halibut apportioned to the trawl rockfish fishery category in the BSAI.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 15, 1995, until 12 noon, A.l.t., April 1, 1995.

FOR FURTHER INFORMATION CONTACT: Michael L. Sloan, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The first seasonal bycatch allowance of Pacific halibut for the BSAI trawl rockfish fishery category, which is defined at § 675.21(b)(1)(iii)(D), was established as 30 metric tons by the final initial 1995 specifications for groundfish (60 FR 8479, February 14, 1995).

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iii), that the first seasonal bycatch allowance of Pacific halibut

apportioned to the trawl rockfish fishery in the BSAI has been caught. Therefore, NMFS is prohibiting directed fishing for species in the rockfish fishery category by vessels using trawl gear in the BSAI from 12 noon, A.l.t., March 15, 1995, until 12 noon, A.l.t., April 1, 1995.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 15, 1995.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–6783 Filed 3–15–95; 4:29 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 54
Tuesday, March 21, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 927

[Docket Nos. AO–99–A–6; FV–92–065]

Winter Pears Grown in Oregon, Washington, and California; Recommended Decision and Opportunity to File Written Exceptions to Proposed Further Amendment of Marketing Agreement and Order No. 927

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and opportunity to file exceptions.

SUMMARY: This recommended decision invites written exceptions on proposed amendments to the marketing agreement and order for winter pears grown in the States of Oregon, Washington, and California. The proposed amendments would redefine ''ship or handle'' to include shipments of winter pears within the production area, update the definition of ''export market'' to recognize that there are now 50 states in the United States, authorize the Winter Pear Control Committee (WPCC) to accept voluntary contributions and how such funds may be used, and revise the authority for exempting certain shipments from regulation. These proposed amendments are designed to improve the administration, operation and functioning of the winter pear marketing order program.

DATES: Written exceptions must be filed by April 20, 1995.

ADDRESSES: Written exceptions should be filed with the Hearing Clerk, U.S. Department of Agriculture, room 1079–S, Washington, DC 20250–9200, Facsimile number (202) 720–9776. Four copies of all written exceptions should be submitted and they should reference the docket numbers and the date and page number of this issue of the **Federal Register**. Exceptions will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Kenneth Johnson or Britthany Beadle, Marketing Specialists, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2523–S, Washington, D.C. 20250–0200; telephone: (202) 720–5127; or Teresa Hutchinson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 S.W. Third Avenue, Room 369, Portland, Oregon, 97204; telephone: (503) 326–2725.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on November 16, 1992, and published in the November 20, 1992, issue of the **Federal Register** (57 FR 54728).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The amendments proposed herein have been reviewed under Executive Order 12778, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the amendments.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to the proposed further amendment of Marketing Agreement and Order No. 927, regulating the handling of winter pears grown in Oregon, Washington, and California, and the opportunity to file written exceptions thereto. Copies of this decision can be obtained from Kenneth G. Johnson, Britthany Beadle or Teresa Hutchinson whose addresses are listed above.

This action is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), hereinafter referred to as the ''Act,'' and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900).

The proposed amendment of Marketing Agreement and Order No. 927 is based on the record of a public hearing held in Portland, Oregon, on December 2, 1992. Notice of this hearing was published in the **Federal Register** on November 20, 1992. The notice of hearing contained several proposals submitted by the WPCC, which locally administers the order.

The proposed amendments would: (1) Redefine ''ship or handle'' to include shipments of winter pears within the production area; (2) update the definition of ''export market'' to recognize that there are now 50 states in the United States; (3) authorize the WPCC to accept voluntary contributions and how such funds may be used; and (4) revise the authority for exempting certain shipments from regulation.

The notice of hearing also included proposals by the Fruit and Vegetable Division, Agricultural Marketing Service (AMS), U.S. Department of Agriculture (Department), to make such changes as are necessary to the order, if any or all of the above amendments are adopted, so that all of its provisions conform with the proposed amendment. The Department also proposed revising the language in several sections of the order.

Interested persons had until January 15, 1993, to file proposed findings and conclusions, and written arguments or briefs based on the evidence received at the hearing. No such documents were received.

Small Business Considerations

In accordance with the provisions of the Regulatory Flexibility Act (RFA), the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than $500,000. Small agricultural service firms, which include handlers regulated under the order, are defined as those with annual receipts of less than $5,000,000.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact of the proposed amendments on small businesses. The record indicates that handlers would not be unduly burdened by any additional regulatory requirements, including those pertaining to reporting and recordkeeping, that might result from this proceeding.

During the 1991–92 crop year, 88 handlers were regulated under Marketing Order No. 927. In addition, there were about 1,650 producers of winter pears in the production area. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit. Thus, both the RFA and the Act are compatible with respect to small entities.

All of the changes in the amendments are designed to enhance the administration and functioning of the marketing agreement and order which would benefit the industry. If implemented, these amendments might impose some costs on affected handlers and producers. However, the added burden on small entities, if present at all, would not be significant because the benefits of the proposed amendments are expected to outweigh the costs.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 35), any change in the reporting and recordkeeping provisions that may result from the proposed amendments would be submitted to the Office of Management and Budget (OMB). The provisions would not be effective until receiving OMB approval.

Material Issues

The material issues of record addressed in this decision are as follows: (1) Whether to redefine ''ship or handle'' to include shipments of winter pears within the production area; (2) whether the definition of ''export market'' should be updated to recognize that there are now 50 states in the United States; (3) whether the WPCC should be authorized to accept voluntary contributions and how such funds may be used; and (4) whether to revise authority for exempting certain shipments from regulation.

Findings and Conclusions

The findings and conclusions on the material issues, all of which are based on evidence adduced at the hearing and the record thereof, are:

(1) Section 927.8, Ship or Handle, of the winter pear marketing order should be amended to cover shipments of winter pears within the production area, as well as interstate shipments.

Record evidence indicates that the intent of the proposal is to provide that shipments of winter pears within the production area be regulated the same as shipments marketed outside the production area. Currently, the order authorizes grade, size, and quality regulations and inspection and reporting requirements for fresh winter pears. While, no grade, quality or size requirements have been issued under the order since the 1979 marketing season, handlers who ship winter pears outside the production area are required to comply with reporting and recordkeeping requirements and pay assessments on those shipments. Handlers who ship winter pears within the production area are not required to comply with such requirements. The WPCC has considered reestablishing grade and size requirements for winter pear shipments in order to ensure the acceptability of such shipments. The WPCC recommended that winter pear shipments within the production area be regulated in the same manner as interstate shipments in order to improve the effectiveness of the marketing order. Regulation of winter pears within the marketing area will help to enhance the orderly marketing of winter pears. The record evidence supports this change in the definition of the term ''ship or handle'' to make shipments of winter pears within the production area subject to all order requirements.

In 1985, marketing order No. 927 was amended to provide for research and promotion activities, including paid advertising. Until then, the Oregon, Washington, California Pear Bureau (Bureau) represented the northwest winter pear industry in its market development and promotion and advertising programs throughout world markets. The Bureau's purpose was to conduct those activities necessary to assure the continued success of the industry.

According to record evidence, the assessments to conduct these activities and membership in the Bureau were voluntary. These voluntary assessments were paid by handlers on winter pears marketed both within and outside of the production area.

The WPCC has the responsibility for collecting mandatory assessments on interstate winter pear shipments. The WPCC provides funds for its research and promotion activities and is responsible for oversight of such projects. Currently, the Bureau manages the WPCC's research and promotion activities. There is a contractual agreement between the WPCC and the Bureau for these purposes. The record indicates that this arrangement has proven beneficial, and the WPCC continues to utilize the Bureau which has over 60 years of experience in trade relations to conduct its marketing, promotion and advertising activities.

Other WPCC activities include collection of various statistical information, and post- and pre-harvest research programs to improve cultural practices. The statistical information collected is used by the WPCC to target potential markets to increase sales of winter pears. Research results to improve cultural and handling practices are distributed throughout the winter pear industry. Handlers pay assessments only on shipments of winter pears to destinations outside the production area, since the order currently provides no authority for assessments on shipments of winter pears within the production area. Currently, handlers of winter pears shipped within the production area may benefit from the WPCC's activities without absorbing any of the costs to conduct these programs. Handlers making shipments of winter pears within the production area are currently exempted from paying assessments.

According to record testimony, it is appropriate that assessments be paid on winter pear shipments within the production area to support production and marketing research and promotion projects. Approximately 15 percent (347,647 cartons out of 2,267,582 cartons for 1991) of the winter pears marketed within the production area are sold in the State in which they are grown.

Record evidence indicates that many of the pears initially shipped to intrastate destinations ultimately enter interstate commerce. According to record testimony, an estimated 70 to 80

percent of the pears sold at retail in Las Vegas, Nevada, and Arizona are moved there from distributors in southern California either by wholesalers or the retailer's own distribution system. Similar estimates are made for pears sold at retail in the Reno/Lake Tahoe area of central Nevada, with service from the Bay Area and/or Sacramento. Hawaii is also serviced by wholesalers in the California seaports. The WPCC believes and the evidence supports that many of these shipments originate from sources in the production area. Promotions paid for with mandatory assessments on interstate shipments are conducted in all of these production areas.

At the hearing, witnesses for the WPCC offered a modification of the proposal as it appeared in the hearing notice. These witnesses testified that the term ''handle'' should not include the transportation of winter pear shipments within the production area from the orchard where grown to a packing facility located within the production area for preparation for market. The intent of this proposal is that winter pears transported within the production area for purposes of preparation for market would not be subject to assessment or any other order requirements since they would not yet have been handled. All other winter pears placed in interstate commerce or marketed within the production area would be subject to regulation, unless otherwise exempt under other provisions of the order.

Record testimony also supported adding the definition of ''consign'' to the definition of ''ship or handle''. The record indicates that ''consign'' is defined as an agreement between a buyer and seller for the transport of product to be marketed with no previous determination of the return of the product. It is the responsibility of the buyer to market the product and return to the seller the proceeds. This should be included as ''handling'' because the ''agent'' or ''handler'' who receives the commodity is engaged in the buying, selling and distributing of the commodity for market. The record also indicates that the words ''handle for shipment'' should be deleted from the definition of the term ''ship or handle'' because they are redundant and not necessary.

Section 927.10, Production area, should be changed from ''area'' to ''production area''. This is a conforming amendment to clarify those areas that comprise the production area under the marketing order.

Section 927.41, Assessments, should be amended to remove any reference to a specific State. Record testimony indicates that this is a conforming amendment to provide the necessary language to comply with the intent of the proposal to regulate winter pear shipments within and outside the production area. This section should also be amended to remove the words ''upon billing''. Record testimony indicates that current procedures to collect assessments do not entail billing. The WPCC does not bill handlers for assessments due. Rather, handlers pay their assessments every two weeks when they submit handler statements of winter pear shipments to the WPCC.

Section 927.52, Prerequisites to Control Committee recommendations, should be amended to provide conforming language updating the marketing order. Presently, the marketing order specifies a basis of one vote for each 25,000 boxes (except 2,500 boxes for Forelle and Seckel varieties) of the average quantity of such variety produced in the particular district and shipped therefrom during the immediately preceding three fiscal periods to destinations outside the State in which produced. As such, only interstate shipments of winter pears are used as a criteria to determine voting procedures. Record evidence supports the inclusion of shipments within the production area in the tonnage vote during WPCC meetings. This action is necessary to provide representation based on all winter pears handled, consistent with order provisions. The proposed amendment to the order has been modified for clarity.

(2) Section 927.12, Export Market, should be amended to update that provision of the marketing order. The marketing order currently provides that ''export market'' means any destination which is not within the 48 states, or the District of Columbia, of the United States. Record testimony indicates that this section of the marketing order should be updated to reflect that the United States is made up of 50 states.

(3) Section 927.45, Contributions, should be added to the marketing order to authorize the WPCC to receive voluntary contributions. Record evidence indicates that marketing promotion and research projects for winter pears should directly benefit growers of that commodity and secondarily benefit other groups and businesses whose interests are allied with the production and marketing of winter pears. These groups frequently desire to make contributions or donations to help defray the costs of such projects. Record testimony indicates that voluntary contributions could include money, information or anything of value. Such contributions should be received by the WPCC free from any encumbrances by the donor and under the complete control of the WPCC. The WPCC should not receive a voluntary contribution from any person if that contribution could represent a conflict of interest. Handlers under the order would be allowed to make voluntary contributions to the WPCC.

Record testimony indicated that the provision to accept voluntary contributions as currently provided in the notice of hearing is too restrictive. According to the proposal included in the hearing notice, the WPCC would be prohibited from accepting funds for any purposes other than research and development. However, record testimony indicates that contributions might be provided for activities other than research and promotion projects including paid advertising. Record testimony indicates that the WPCC should be authorized to receive voluntary contributions for any purpose authorized under the order.

Witnesses testified at the hearing that a person making a voluntary contribution to the WPCC should be able to specify its use for a particular authorized activity. However, the WPCC should be free to receive and use such contributions, subject to the provisions of the order, without any encumbrances upon the donor. The acceptance of voluntary contributions with encumbrances by the donor could, at a minimum, give rise to the appearance of improprieties. Accordingly, this recommendation is not included in the proposed amendment.

Section 927.47, Research and Development, should be changed to include conforming language that provides for the acceptance and use of voluntary contributions. The marketing order currently provides that research and development projects shall be paid from funds collected pursuant to § 927.41. This proposed amendment would allow funds collected from voluntary contributions pursuant to § 927.45 to also pay for such projects.

(4) Section 927.65, Exemption from regulation, should be amended to include additional types of winter pear shipments that may be exempt from regulation under the marketing order. Record testimony suggested additional language should be added to the proposed order amendments to provide exemptions to allow the WPCC, with the approval of the Secretary, to establish regulations that exempt from any or all requirements pursuant to this part quantities of pears or of types of pear shipments that do not interfere with the objectives of the order. These proposed

provisions would be in addition to the proposed amendments in the notice of hearing. Record testimony indicates that the overall intent of this amendatory action is to enable the exemption of shipments that do not impact fresh commercial shipments. Record testimony indicated further that § 927.65, ''Exemptions from regulation'', would be reviewed by the WPCC annually, and that the WPCC would have the flexibility of including and or adjusting requirements, subject to the approval of the Secretary, depending on the circumstances of any given year.

Rulings on Briefs of Interested Persons

The presiding officer at the hearing set January 15, 1993, as the final date for filing briefs with respect to the evidence presented at the hearing and the conclusions which should be drawn therefrom. No briefs were received.

General Findings

(1) The findings hereinafter set forth are supplementary to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of the said prior findings and determinations are hereby ratified and affirmed;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of winter pears grown in the production area in the same manner as, and are applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which a hearing has been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivision of the production area would not effectively carry out the declared policy of the Act; and

(5) All handling of winter pears grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended Further Amendment of the Marketing Agreement and Order

The following amendment of the marketing agreement and order, both as amended, is recommended as the detailed means by which the foregoing conclusions may be carried out:

List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the following provisions in Title 7, Part 927, are proposed to be amended as follows:

PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

1. The authority citation for 7 CFR Part 927 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 927.8 is revised to read as follows:

§ 927.8 Ship or handle.

Ship or *handle* means to sell, deliver, consign or transport pears, within the production area or between the production area and any point outside thereof: *Provided*, That the term ''handle'' shall not include the transportation of winter pear shipments within the production area from the orchard where grown to a packing facility located within the production area for preparation for market.

3. Section 927.10 is revised to read as follows:

§ 927.10 Production area.

Production area means and includes the States of Oregon, Washington, and California.

4. Section 927.12 is revised to read as follows:

§ 927.12 Export market.

Export market means any destination which is not within the 50 states, or the District of Columbia, of the United States.

5. In § 927.41, paragraph (a) is revised to read as follows:

§ 927.41 Assessments.

(a) Assessments will be levied only upon handlers who first handle pears. Each handler shall pay assessments on all pears handled by such handler as the pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the Control Committee during a fiscal period. The payment of assessments for the maintenance and functioning of the Control Committee may be required under this part throughout the period such assessments are payable irrespective of whether particular provisions thereof are suspended or become inoperative.

* * * * *

6. Section 927.45 is added to read as follows:

§ 927.45 Contributions.

The Control Committee may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 927.47. Furthermore, such contributions shall be free from any encumbrances by the donor and the Control Committee shall retain complete control of their use.

7. Section 927.47 is revised to read as follows:

§ 927.47 Research and development.

The Control Committee, with the approval of the Secretary, may establish or provide for the establishment of production research, or marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of pears. Such projects may provide for any form of marketing promotion, including paid advertising. The expense of such projects shall be paid from funds collected pursuant to §§ 927.41 and 927.45. Expenditures for a particular variety of pears shall approximate the amount of assessments and voluntary contributions collected for that variety of pears.

8. In § 927.52, paragraph (b)(1) is revised to read as follows:

§ 927.52 Prerequisites to Control Committee recommendations.

* * * * *

(b) * * *

(1) The basis of one vote for each 25,000 boxes (except 2,500 boxes for Forelle and Seckel varieties) of the average quantity of such variety produced in the particular district and shipped therefrom during the immediately preceding three fiscal periods; or

* * * * *

9. In § 927.65, paragraph (b) is revised to read as follows:

§ 927.65 Exemption from regulation.

* * * * *

(b) The Control Committee may prescribe rules and regulations, to become effective upon the approval of the Secretary, whereby quantities of pears or types of pear shipments may be

exempted from any or all provisions of this subpart.

* * * * *

Dated: March 15, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–6909 Filed 3–20–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 101, 111, 170, and 310

[Docket Nos. 91P–0186 and 93P–0306]

Acute Toxicity of Elemental (Reduced, Metallic Powder) Forms of Iron Relative to That of Iron Salts; Notice of a Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public workshop on the acute toxicity of elemental (reduced, metallic powder) forms of iron. The purpose of this workshop is to solicit scientific data and information from interested persons about the acute toxicity of elemental forms of iron with regard to whether such forms are sufficiently safe in dietary supplement and drug products to warrant exemption from the special packaging and labeling requirements that FDA has proposed for products containing iron salts.

DATES: The public workshop will be held on April 20, 1995, 8:30 a.m. to 5 p.m. Submit written comments by April 20, 1995.

ADDRESSES: The public workshop will be held at the Parklawn Bldg., conference room G, 5600 Fishers Lane, Rockville, MD 20857. Written comments regarding the workshop may be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John N. Hathcock, Center for Food Safety and Applied Nutrition (HFS–465), Food and Drug Administration, 8301 Muirkirk Rd., Laurel, MD 20708, 301–594–6006.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 6, 1994 (59 FR 51030), FDA issued a proposal (the initial proposal) on actions that it tentatively concluded were necessary to stem the recent epidemic of pediatric poisonings from over-consuming iron-containing products. In the **Federal Register** of February 16, 1995 (60 FR 8989), the agency issued a supplementary proposal to clarify changes in its legal authority with the passage of the Dietary Supplement Health and Education Act (Pub. L. 103–417).

In the initial proposal, FDA briefly described the three basic types of elemental iron powders that are marketed for use in foods. The three types are reduced iron, electrolytic iron, and carbonyl iron. The term ''carbonyl'' refers to the production process, not the composition of the product. The bioavailability of these various elemental iron sources is dependent primarily on their physical characteristics, which in turn depend on the manufacturing method. For example, higher relative bioavailabilities of elemental iron are obtained with smaller particle sizes.

Some evidence suggests that carbonyl iron may be a useful substitute for the more commonly used chemical compounds of iron in reducing the risk of accidental iron poisonings. Data from studies in animals suggest that carbonyl iron may be only 1/100th as toxic as ferrous sulfate in single doses, i.e., the LD_{50} (lethal dose for 50 percent of the test group) of ferrous sulfate is approximately 0.30 gram ferrous per kilogram (g Fe/kg) (*The Merck Index*, 11th ed., p. 635 (1989)), and the LD_{50} for carbonyl iron is approximately 30.0 g Fe/kg body weight. At the same time, data from human subjects indicate that the overall bioavailability of carbonyl iron in supporting the nutritional functions of iron is about 70 percent that of ferrous sulfate. Thus, carbonyl iron, in comparison with ferrous sulfate, appears to have a much larger margin of safety between the level that would provide adequate iron nutrition and the level that causes acute toxicity. Consequently, carbonyl iron may be inherently safer to use, and its use may help to reduce the risk of iron poisoning in children, than ferrous sulfate.

In the initial proposal, FDA expressed interest in receiving data on the potential of elemental iron to have acute toxicity in humans, and particularly in children, and stated that the agency would carefully consider any information that it received on this subject. FDA stated that, if the information it received was persuasive in establishing that the use of elemental iron would substantially decrease the risk of pediatric poisoning while allowing for effective dietary iron supplementation, FDA would consider exempting iron-containing products that incorporate elemental iron from any regulations that result from this rulemaking.

In response to this request for information, FDA received several comments that supplied information on this topic. Some of the comments included citations to scientific literature or copies of scientific articles. The comments argued that the information supports an exemption of products formulated with elemental iron from the labeling and packaging requirements applied to products containing iron salts. These comments have convinced FDA that the issues and data that they have presented should be discussed in a public workshop.

The purpose of the workshop on the acute toxicity of elemental iron is to:

1. Identify data that objectively describe the acute toxicity of elemental iron.
2. Identify the market uses of elemental iron and any adverse reaction reporting systems or processes used by manufacturers and vendors.
3. Identify any data on acute, accidental exposure of children or adults to products containing elemental iron.
4. Discuss a possible conceptual framework for evaluation of the effects of elemental forms of iron upon acute exposure.
5. Discuss the validity, and limitations, of acute toxicity data in experimental animals in predicting the risk in young children.

Specific topics that may be relevant and on which discussion is invited include:

1. Physiological factors that influence acute toxicity of elemental forms of iron, in comparison with those for iron salts.
2. The quality, results, and relevance of animal studies on acute toxicity of elemental iron and iron salts.
3. The quality and results of human studies for evaluating the effects of elemental iron.
4. Factors influencing the validity of extrapolation of experimental animal data on acute toxicity of various forms of iron for predicting the risk in young children.
5. Current uses of elemental iron in dietary supplements and drugs and the data available on potential adverse effects.

Discussion of these topics will be considered by FDA in the development of any final rule on the packaging and labeling of products containing iron salts. In conjunction with the workshop, FDA specifically requests comments on the appropriateness of elemental iron as a source of iron in drugs and dietary supplements. The comments should focus on whether the use of elemental

iron in iron-containing products will decrease the risk of pediatric poisonings, while providing desirable iron nutrition to those who need iron supplementation, and on whether an exemption for products that contain elemental iron from any packaging and labeling requirements that result from the underlying rulemaking is appropriate.

Interested persons may on or before April 20, 1995, submit to the Dockets Management Branch (address above) comments on the workshop. Additional written comments may be submitted for 30 days after the date of this workshop. Two copies of any comments are to be submitted, except that individuals may submit one copy. Written comments and submitted documents are to be identified with the docket numbers found in brackets in the heading of this document. Received comments and the transcript of the discussion identified with the same docket numbers may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 16, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–6919 Filed 3–20–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8–R]

RIN 0720–AA26

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Six Separate Changes

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule addresses six separate changes to comply with new statutory provisions affecting CHAMPUS. These changes will update this part to include as a benefit, a screen to check for the level of lead in the blood of an infant; eliminate the implied statement that ambulance services are covered only to and from hospitals; include other forms of prescribed contraceptives by eliminating the reference that limits prescribed contraceptives only to those taken orally; recognize chemical aversion therapy as a treatment modality for alcoholism by eliminating the exclusionary language in the current regulation; identify three additional Gulf Conflict groups eligible for the delay in the increased deductible; and to establish lower limits on the fiscal year catastrophic cap from $10,000 to $7,500 for all eligibles except dependents of active duty personnel, whose limit remains at $1,000.

DATES: Written comments, whether from the general public or from other governmental agencies, must be received on or before May 22, 1995.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Program Development Branch, Aurora, Co 80045–6900.

FOR FURTHER INFORMATION CONTACT: Mr. A. Chris Armijo, Program Development Branch, OCHAMPUS, telephone (303) 361–1120.

SUPPLEMENTARY INFORMATION: 32 CFR 199.4 lists Basic Program benefits including exclusions and limitations. Paragraph (c) defines, in general terms, the scope of reimbursable services provided by physicians and other authorized individual professional providers; paragraph (e) extends benefits under certain circumstances, to conditions and limitations that are subject to applicable definitions, conditions, or exclusions that are set forth in this or other sections of this regulation; paragraph (f) identifies the liabilities, in the form of cost-shares and deductibles, to be paid by beneficiaries or sponsors.

Well-Baby Care: Paragraph (c)(3)(xi), provides for certain well-baby care services for infants up to the age of two years. A paragraph (6) will be added under paragraph (xi)(A) to list blood lead level screening for infants as a benefit.

Ambulance Service: Ambulance services are covered between points deemed to be medically necessary for the covered medical condition, therefore, the restrictive language, ''to, from, and between hospitals'' will be removed from paragraph (d)(3)(v).

Family Planning: Paragraph (e)(3) provides for a family planning benefit. Paragraph (e)(3)(i)(A)(3) of this Section allows benefits for prescribed oral contraceptives. With the development of new methods of contraception, prescribed contraceptives are no longer limited to those taken orally. We are, therefore, amending that paragraph by removing the word ''oral'' to expand the coverage accordingly.

Treatment for Alcoholism: Paragraph (e)(4)(iii)(A) of § 199.4, has historically excluded benefits for aversion therapy as a treatment modality for alcoholism. At the request of OCHAMPUS, the Office of Health Technology Assessment (OHTA) of the Public Health Service (PHS) conducted an assessment of the safety and efficacy of chemical aversion conditioning for the treatment of alcoholism. On the basis of the OHTA assessment, it was determined that chemical aversion conditioning is no less effective than other therapies for alcoholism when it is provided following the failure of less intrusive therapies. This rule proposes to remove paragraph (e)(4)(iii)(A) in its entirety to remove exclusionary language, to reserve that paragraph for future use, and to revise paragraph (4)(ii), to include coverage of chemical aversion therapy as a treatment modality.

Financial Liability-Deductibles: Under paragraph (f) of section 199.4, CHAMPUS beneficiaries and sponsors have some financial responsibility when medical care is received from civilian sources. Financial liability is imposed in order to encourage use of the Uniformed Services direct medical care system whenever facilities and services are available. Beneficiaries are responsible for payment of certain deductible and cost-sharing amounts in connection with otherwise covered services and supplies. The cost-share and deductible amounts are controlled by statute and subject to change by Congressional action. Previous legislation had deferred a statutory increase in the deductible amount from April 1, 1991, to October 1, 1991, for dependents of active duty members who served in the Gulf Conflict. The National Defense Authorization Act for Fiscal Year 1993 contains language which prompts a revision of paragraph (f)(2)(i)(G) of this section to identify three new groups of Gulf Conflict beneficiaries, besides the dependents of active duty members, eligible for the delay in the increased deductibles, and to allow credit or reimbursement of excess amounts inadvertently paid by those groups subject to availability of appropriated funds.

Catastrophic Loss: The National Defense Authorization Act for Fiscal Years 1988 and 1989 (P.L. 100–180) amended Title 10, United States Code and established catastrophic loss protection for CHAMPUS beneficiaries on a government fiscal year basis. The law placed fiscal year limits or, catastrophic caps, on beneficiary liability for cost-shares and deductibles under the CHAMPUS Basic Program. After the fiscal year cap is met by the beneficiary, the CHAMPUS determined allowable amounts for all covered services or supplies received under the Basic Program are to be paid in full by CHAMPUS.

For dependents of active duty members, the maximum family liability

is $1,000 for deductibles and cost-shares based on allowed charges for the Basic Program services and supplies received in a fiscal year. For all other categories of beneficiary families, the previous fiscal year cap of $10,000 under P.L. 100–180 has been reduced under the 1993 Defense Authorization Act (P.L. 102–484) to $7,500. This proposed rule implements the law which reduces the fiscal year catastrophic other than active duty dependents, effective for Basic Program services and supplies received on or after October 1, 1992.

Regulatory Procedures: OMB has determined that this is not a significant rule as defined by E.O. 12866.

The Regulatory Flexibility Act (RFA) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This proposed rule would not have a significant impact on a substantial number of small entities. The changes set forth in this proposed rule are minor revisions to the existing regulation. This proposed rule does not impose information collection requirements on the public under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511). Public comments on this proposed rule are invited and will be considered. A discussion of any major issues revised as a result of public comments will be included in issuance of the final rule, anticipated approximately 60 days after the end of the comment period.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 is proposed to be revised as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.4 is proposed to be amended in paragraph (e)(3)(i)(A)(*3*) by removing the word ''oral''; by removing and reserving paragraph (e)(4)(iii)(A); by adding new paragraphs (c)(3)(xi)(A)(*7*) and (f)(10); and by revising the first sentence in paragraph (d)(3)(v), paragraph (e)(4)(ii), and paragraph (f)(2)(i)(G) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(c) * * *

(3) * * *

(xi) * * *

(A) * * *

(*7*) One screening of an infant to determine the level of lead in the blood of that infant.

* * * * *

(d) * * *

(3) * * *

(v) *Ambulance.* Civilian ambulance service is covered when medically necessary in connection with otherwise covered services and supplies and a covered medical condition. * * *

* * * * *

(e) * * *

(4) * * *

(ii) *Authorized substance use disorder treatment.* Only those services provided by CHAMPUS-authorized institutional providers are covered. Such a provider must be either an authorized hospital, or an organized substance use disorder treatment program in an authorized free-standing or hospital-based substance use disorder rehabilitation facility. Covered services consist of any or all of the services listed below, including chemical aversion therapy for alcoholism. A qualified mental health provider (physician, clinical psychologist, clinical social worker, psychiatric nurse specialist, (see paragraph (c)(3)(i) of this section) shall prescribe the particular level of treatment. Each CHAMPUS beneficiary is entitled to three substance use disorder treatment benefit periods in his or her lifetime, unless this limit is waived pursuant to paragraph (e)(4)(v) of this section. Unless clinically contraindicated, the programmed use of chemical aversion therapy is limited to the third lifetime alcoholism benefit period. (A benefit period begins with the first date of covered treatment and ends 365 days later, regardless of the total services actually used within the benefit period. Unused benefits cannot be carried over to subsequent benefit periods. Emergency and inpatient hospital services (as described in paragraph (e)(4)(i) of this section do not constitute substance abuse treatment for purposes of establishing the beginning of a benefit period.)

* * * * *

(f) * * *

(2) * * *

(i) * * *

(G) Notwithstanding the dates specified in paragraphs (f)(2)(i) (A) and (B) of this section, in the case of dependents of active duty members of rank E–5 or above with Persian Gulf Conflict service, dependents of service members who were killed in the Gulf, who died subsequent to Gulf service, and of members who retired prior to October 1, 1991, after having served in the Gulf War, the deductible shall be the amount specified in paragraph (f)(2)(i)(A) of this section for care rendered prior to October 1, 1991, and the amount specified in paragraph (f)(2)(i)(B) of this section for care rendered after October 1, 1991.

* * * * *

(10) *Catastrophic loss protection for basic program benefits.* Fiscal year limits, or catastrophic caps, on the amounts beneficiaries are required to pay are established as follows:

(i) *Dependents of active duty members.* The maximum family liability is $1,000 for deductibles and cost-shares based on allowable charges for Basic Program services and supplies received in a fiscal year.

(ii) *All other beneficiaries.* For all other categories of beneficiary families (including those eligible under CHAMPVA), the fiscal year cap is $10,000.

(iii) *Payment after cap is met.* After a family has paid the maximum cost-share and deductible amounts (dependents of active duty members $1,000 and all others $10,000), for a fiscal year, CHAMPUS will pay allowable amounts for remaining covered services through the end of that fiscal year.

Note to paragraph (f)(2)(i)(G)(10): Under the Defense Authorization Act for fiscal year 1993, the cap for beneficiaries other than dependents of active duty members was reduced from $10,000 to $7,500 on October 1, 1992. The cap remains at $1,000 for dependents of active duty members.

* * * * *

Dated: March 14, 1995.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–6670 Filed 3–20–95; 8:45 am]

BILLING CODE 5000–04–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL79–2–6616B; FRL–5167–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve requested revisions to the Chicago ozone Federal Implementation Plan as it pertains to the following sources: General Motors Corporation,

Minnesota Mining and Manufacturing Corporation; Replogle Globes, Inc., Candle Corporation of America, Nalco Chemical Company, Parisian Novelty Company, Meyercord Corporation, Wallace Computer Services, Inc. and General Packaging Products, Inc. This action lists the FIP revisions USEPA is proposing to approve and provides an opportunity to request a public hearing. A detailed rationale for approving these requests is presented in the final rules section of this **Federal Register**, where USEPA is approving the revision requests as a direct final rule without prior proposal because USEPA views these as noncontroversial revisions and anticipates no adverse comments. If no adverse comments or requests for a public hearing are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments or a public hearing request, the direct final rule will be withdrawn. The USEPA will institute a second comment period on this notice only if a public hearing is requested. Any parties interested in commenting on this notice should do so at this time. If a request for a public hearing is received, USEPA will publish a notice in the **Federal Register** announcing a public hearing. The final rule on this proposed action will address all comments received.

DATES: Comments on this proposal must be received by April 20, 1995. A public hearing, if requested, will be held in Chicago, Illinois. Requests for a public hearing should be submitted to J. Elmer Bortzer by April 20, 1995.

ADDRESSES: Written comments and requests for a public hearing on this proposed action should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments should be strictly limited to the subject matter of this proposal.

DOCKET: Pursuant to section 307(d)(1)(B) of the Clean Air Act (Act), 42 U.S.C. 7607(d)(1)(B), this action is subject to the procedural requirements of section 307(d). Therefore, USEPA has established a public docket for this action, A–94–39, which is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at the following addresses. We recommend that you contact Fayette Bright before visiting the Chicago location and Rachel Romine before visiting the Washington, D.C. location. A reasonable fee may be charged for copying.

The United States Environmental Protection Agency, Region 5, Regulation Development Branch, Eighteenth Floor, Southeast, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 886–6069.

United States Environmental Protection Agency, Docket No. A–94–39, Air Docket (LE–131), Room M1500, Waterside Mall, 401 M Street SW., Washington, D.C. 20460, (202) 245–3639.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6052.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: February 28, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 95–6004 Filed 3–20–95; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 70

[AD–FRL–5174–4]

Title V Clean Air Act Proposed Interim Approval of Operating Permits Program; District of Columbia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim approval.

SUMMARY: EPA is proposing interim approval of the operating permits program submitted by the District of Columbia. This program was submitted by the District for the purpose of complying with federal requirements which mandate that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources. The rationale for proposing interim approval is set forth in this notice; additional information is available at the address indicated below. This action is being taken in accordance with the provisions of the Clean Air Act.

DATES: Comments on this proposed action must be received in writing by April 20, 1995.

ADDRESSES: Comments should be submitted to Jennifer Abramson at the Region III address indicated. Copies of the District's submittal and other supporting information used in developing the proposed interim approval are available for inspection during normal business hours at the following location: Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

FOR FURTHER INFORMATION CONTACT: Jennifer M. Abramson (3AT23), Air, Radiation and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597–2923.

SUPPLEMENTARY INFORMATION:

I. Background

As required under Title V of the Clean Air Act (CAA) as amended (1990), EPA has promulgated rules which define the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of state operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V requires states to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The CAA requires that states develop and submit these programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. EPA's program review occurs pursuant to section 502 of the CAA and part 70, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of Part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, EPA must establish and implement a federal operating permits program.

Following final interim approval, if the District fails to submit a complete corrective program for full approval by 6 months before the interim approval period expires, EPA would start an 18-month clock for mandatory sanctions. If the District then failed to submit a complete corrective program before the expiration of that 18-month period, EPA would be required to apply one of the sanctions in section 179(b) of the CAA. Such a sanction would remain in effect until EPA determined that the District had corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator found a lack of good faith on the part of the District, both sanctions under section 179(b) would apply after the

expiration of the 18-month period until the Administrator determined that the District had come into compliance. In any case, if, six months after application of the first sanction, the District still had not submitted a corrective program that EPA found complete, a second sanction would be required.

If, following final interim approval, EPA disapproved the District's complete corrective program, EPA would be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the District had submitted a revised program and EPA had determined that this program corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator found a lack of good faith on the part of the District, both sanctions under section 179(b) would apply after the expiration of the 18-month period until the Administrator determined that the District had come into compliance. In all cases, if, six months after EPA applied the first sanction, the District had not submitted a revised program that EPA had determined corrected the deficiencies that prompted disapproval, a second sanction would be required.

In addition, discretionary sanctions may be applied where warranted any time after the end of an interim approval period if the District has not timely submitted a complete corrective program or EPA has disapproved a submitted corrective program. Moreover, if EPA has not granted full approval to a District program by the expiration of an interim approval period, EPA must promulgate, administer and enforce a federal operating permits program for the District upon the date the interim approval period expires.

On January 13, 1994, the District of Columbia submitted an operating permits program for review by EPA. The submittal was supplemented by additional materials on March 11, 1994, and was found to be administratively complete pursuant to 40 CFR 70.4(e)(1). The submittal includes an Administrator's letter, a description of the District's title V program, permitting regulations, a Corporation Counsel's legal opinion, permitting program documentation, a permit fee demonstration, a description of compliance tracking and enforcement program, and provisions implementing the requirements of other titles of the CAA.

II. Summary and Analysis of the District's Submittal

The analysis contained in this notice focuses on the major portions of the District's operating permits program submittal: regulations and program implementation, variances, fees, support materials, and provisions implementing the requirements of titles III and IV of the CAA. Specifically, this notice addresses the deficiencies in the District's submittal which will need to be corrected prior to full approval by EPA. These deficiencies as well as other issues related to the District's operating permit program are discussed in detail in the Technical Support Document (TSD). The full program submittal and the TSD are available for review as part of the public docket. The docket may be viewed during regular business hours at the EPA Region III office listed in the **ADDRESSES** section of this document.

A. Regulations and Program Implementation

The District of Columbia's operating permit program is primarily defined by regulations adopted as chapter 3 of subtitle I of title 20 of the District of Columbia Municipal Regulations (20 DCMR). Provisions for enforcement authority are located in other Chapters of subtitle I of 20 DCMR. The following analysis of the District's operating permit regulations corresponds directly with the format and structure of part 70.

Section 70.2 Definitions

The District's regulations substantially meet the requirements of 40 CFR 70.2 for definitions. The following changes must be made to chapter 3 in order to fully meet the requirements of 40 CFR 70.2.

1. The § 399.1 definition of ''Fugitive emissions'' is entitled ''Emissions emissions''. This typographical error must be corrected to clarify the meaning of the term fugitive emissions as the term is used in the chapter 3 operating permits regulations.

2. The § 399.1 definition of ''Title I modification or modification under any provision of Title I of the Act'' does not expressly include changes reviewed under a minor source preconstruction review program (''minor NSR changes''). EPA is currently in the process of determining the proper definition of this term. As further explained below, EPA has solicited public comment on whether the phrase ''modification under any provision of Title I of the Act'' in 40 CFR 70.7(e)(2)(i)(A)(5) should be interpreted to mean literally any change at a source that would trigger permitting authority review under regulations approved or promulgated under Title I of the Act. This would include state preconstruction review programs approved by EPA as part of a State Implementation Plan (SIP) under section 110(a)(2)(C) of the Clean Air Act.

On August 29, 1994, EPA proposed revisions to the interim approval criteria in 40 CFR 70.4(d) to, among other things, allow state programs with a more narrow definition of ''Title I modifications'' to receive interim approval (59 FR 44572). EPA explained its view that the preferred reading of ''Title I modifications'' includes minor NSR, and solicited public comment on the proper interpretation of that term (59 FR 44573). EPA stated that if, after considering the public comments, it continued to believe that the term ''Title I modifications'' should be interpreted as including minor NSR changes, it would revise the interim approval criteria as needed to allow states with a narrower definition to be eligible for interim approval.

EPA hopes to finalize its rulemaking revising the interim approval criteria under 40 CFR 70.4(d) expeditiously. If EPA establishes in its rulemaking that the definition of ''Title I modifications'' can be interpreted to exclude changes reviewed under minor NSR programs, the District's definition of ''Title I modification or modification under any provision of Title I of the Act'' would be fully consistent with part 70. Conversely, if EPA establishes through the rulemaking that the definition must include changes reviewed under minor NSR, the District's definition of ''Title I modification or modification under any provision of Title I of the Act'' will not fully meet the 40 CFR 70.2 requirements for definitions. If the impact of this deficiency becomes a basis for interim approval as a result of EPA's rulemaking, the District would be required to revise the section 399.1 definition to conform to the requirements of part 70.

Accordingly, this proposed approval does not identify the District's definition of ''Title I modification or modification under any provision of Title I of the Act'' as necessary grounds for either interim approval or disapproval. Again, although EPA has reasons for believing that the better interpretation of ''Title I modifications'' is the broader one, EPA does not believe that it is appropriate to determine whether this is a program deficiency until EPA completes its rulemaking on this issue.

Section 70.5 Permit Applications

The District's regulations substantially meet the requirements of

40 CFR 70.5 for permit applications. The following changes must be made to Chapter 3 in order to fully meet the requirements of 40 CFR 70.5:

1. Section 301.1(b)(6)(B) must be modified to clarify that applications for permit renewal must contain both a compliance plan, as required by § 301.3(h), and a compliance certification, as required by § 301.3(i).

2. The District must revise § 301.3(c)(1) to ensure that all regulated air pollutant emissions which are subject to applicable requirements, including emissions from nonmajor sources subject to section 111 or 112 of the CAA, and sources solely subject to Part 60, Subpart AAA—Standards of Performance for new Residential Wood Heaters and Part 61, Subpart M—National Emissions Standard for Hazardous Air Pollutants (NESHAP) for Asbestos, section 61.145, Standard for Demolition and Renovation, will be described in permit applications.

During the interim period, the District will be expected to require sources to prepare permit applications which include all information needed to determine the applicability of any applicable requirement, in accordance with § 301.3.

Accordingly, the District will also be expected to issue permits to major sources that include all applicable requirements, in accordance with § 302.1.

3. Section 301.3(g) must be revised to correct the misreferenced sections of the District's regulations which address alternate operating scenarios and emissions trading.

4. Section 301.3(h)(3)(C) must be revised to clarify that any schedule of compliance shall be supplemental to and shall not sanction noncompliance with the applicable requirements on which it is based.

Sections 70.4 and 70.6 Permit Content

The District's regulations substantially meet the requirements of 40 CFR 70.4 and 40 CFR 70.6 for permit content. The following changes must be made to Chapter 3 in order to fully meet the requirements of 40 CFR 70.4 and 40 CFR 70.6:

1. Section 302.1(k) must be revised to clarify that terms and conditions for the trading or averaging of emissions must meet all applicable requirements and the requirements of the operating permits program.

2. Section 302.3(e)(6) must be renumbered to § 302.3(f) to be consistent with the structure of 40 CFR 70.6(c)(6). Such a change is needed to clarify that the permit will include provisions required by the Mayor to ensure compliance.

3. Section 302.4(e) must be revised to clarify that requests for coverage under a general permit must meet the permit application requirements of Title V of the Clean Air Act, and include all information necessary to assure compliance with the general permit.

4. The section 302.8 provisions regarding operational flexibility must be restructured to clarify that the three types of operational flexibility (Section 502(b)(10) changes, emissions trading under SIP, and emissions trading for the purposes of complying with federally enforceable emissions cap) are available only when the conditions specified in 40 CFR 70.4(b)(12) are met.

5. Section 302.8(b) must be revised to clarify that compliance with emissions trading provisions in a permit will be determined according to requirements of the applicable SIP/ Federal Implementation Plan (FIP) or applicable requirement authorizing the emissions trade.

Section 70.7 Permit Issuance, Renewal, Reopenings, and Revisions

The District's regulations substantially meet the requirements of 40 CFR 70.7 for permit issuance, renewal, reopenings, and revisions. The following changes must be made to Chapter 3 in order to fully meet the requirements of 40 CFR 70.7:

1. The provisions of § 303.1(f) and § 303.1(e)(2) authorize an extension of 5 days from the permit issuance deadlines required in part 70. Sections 303.1(f) and 303.1(d)(1) must be revised to ensure that the Part 70 permit issuance deadlines will be met.

2. Section 303.3(a) language must be modified to clarify that public participation and EPA and affected state review will apply to the entire draft renewal permit, including those portions which are incorporated by reference.

3. Section 303.5(d)(1) prescribes the use of significant permit modification procedures for changes meeting certain criteria. So that all types of changes will be assigned a specified permit revision track, § 303.5(d)(1) must be revised to also require the use of the significant permit modification procedure for any type of change which does not qualify for either a minor permit modification or an administrative amendment.

4. The District must revise § 303.10 to provide for sending notice to persons on a mailing list developed by the permitting authority, including those people who request, in writing, to be on the list.

5. Section 303.10(a)(1)(B) must be revised to require the notice to include procedures to request a hearing in the event that a hearing has not been scheduled. Although not specified in the Chapter 3 regulations, the District must provide an opportunity to request a hearing if one has not been scheduled during the interim period.

6. Section 303.10 must be revised to include a provision that requires notice of a public hearing at least 30 days in advance of the hearing. Although not specified in the Chapter 3 regulations, the District must provide notice of a public hearing at least 30 days in advance of the hearing during the interim period.

Section 70.9 Fee Determination and Certification

The District's regulations substantially meet the requirements of 40 CFR 70.9 for fee determination and certification. The following changes must be made to Chapter 3 in order to fully meet the requirements of 40 CFR 70.9:

1. Section 305.2(b) must be revised to clarify that the August 1989 CPI value of 124.6 will not be used for the purposes of calculating the CPI fee adjustment and that the appropriate value of 122.15, the average 1989 CPI value, will be used instead.

2. Section 305.1 requires sources to pay an annual presumptive minimum fee ''or the equivalent over some other period''. Although appearing in section 502(b)(3)(A) of the CAA, the language ''or the equivalent over some other period'' as written into this section may allow for wide variations in the amount and timing of fee payments and could frustrate enforcement of the fee payment requirement. If the District intends to provide sources with the flexibility to pay fees pursuant to a pay schedule other than the annual presumptive minimum, section 305.1 must be revised to ensure that such equivalent fee schedule is enforceable as a practical matter. If the District does not intend to allow sources to pay fees other than the annual presumptive minimum, the section 305.1 language ''or the equivalent over some other period'' should be removed.

Section 70.11 Enforcement Authority

The District's regulations substantially meet the requirements of 40 CFR 70.11 for requirements for enforcement authority. The following changes must be made to subtitle I of 20 DCMR in order to fully meet the requirements of 40 CFR 70.11:

1. The enforcement provisions cited in the Corporation Counsel's opinion as

meeting the enforcement requirements of part 70 do not satisfy the requirements of § 70.11(a)(1) and (2). The District must either revise the Corporation Counsel's opinion to reference existing provisions in District of Columbia law which satisfy the requirements of 70.11(a) (1) and (2), or specifically establish authorities to restrain or enjoin immediately permit violators presenting substantial endangerment, and to seek injunctive relief for program and permit violations without the need for prior revocation of the permit. Whichever approach the District takes, the District's regulations must clearly establish that such enforcement authority extends to chapter 3.

2. The District must clarify that civil fines are recoverable for the violation of any applicable requirement, any permit condition, any fee or filing requirement, any duty to allow or carry out inspection, entry of monitoring activities or, any regulation or orders issued by the Mayor. The District must either amend the Subtitle I of 20 DCMR to specifically address the types of violations for which civil fines are recoverable, or otherwise have the Corporation Counsel demonstrate that section 100.6 applies to each of the specific types of violations mentioned in § 70.11(a)(3)(i).

3. As required by 40 CFR 70.11(a)(3), the District must establish civil enforcement authority for the collection of penalties in a maximum amount of not less than $10,000 per day per violation. Such civil penalties must be recoverable for the types of violations discussed in § 70.11(a)(3)(i).

4. With respect to the § 100.6 civil enforcement authority, the District must clarify that mental state is not allowed as an element of proof for civil violations. The District must either establish regulatory provisions for strict liability or provide a demonstration from the Corporation Counsel that mental state is not allowed as an element of proof for civil violations.

5. The District must clarify that criminal fines are recoverable for any knowing violations of applicable requirements, permit conditions, or fee or filing requirements. Criminal fines must also be recoverable against any person who knowingly makes any false material statement, representation or certification in any forms, in any notice or report required by a permit, or who knowingly renders inaccurate any required monitoring device or method. The District must either amend the subtitle I of 20 DCMR to specifically address the types of knowing violations for which criminal fines are recoverable or have the Corporation Counsel demonstrate that section 105.1 applies to each of the specific types of knowing violations mentioned in § 70.11(a)(3)(ii) and (iii).

6. Section 105.1 provides criminal enforcement authority for the recovery of fines in an amount not to exceed $10,000. Pursuant to the requirements of § 70.11(a)(3)(i), the District must revise the provisions pertaining to criminal enforcement so to authorize the collection of penalties in a maximum amount of not less than § 10,000 per day per violation. Such criminal penalties must be recoverable for the types of knowing violations discussed in § 70.11(a)(3)(ii) and (iii).

B. Variances

The District of Columbia has the authority to issue a variance from requirements imposed by the District under the ''District of Columbia Air Pollution Control Act of 1984'' (APCA). Under specific circumstances and following a specified procedure, section 103 of the APCA authorizes the Mayor to grant or deny requests for relief from APCA requirements. EPA regards this provision as wholly external to the program submitted for approval under part 70, and consequently is proposing to take no action on this provision of the District's law. EPA has no authority to approve provisions of District law, such as the variance provisions referred to, which are inconsistent with the CAA. EPA does not recognize the ability of a permitting authority to grant relief from the duty to comply with a federally enforceable part 70 permit, except where such relief is granted through procedures allowed by part 70. EPA reserves the right to enforce the terms of the part 70 permit where the permitting authority purports to grant relief from the duty to comply with a Part 70 permit in a manner inconsistent with Part 70 procedures.

C. Permit Fee Demonstration

Section 305 of the District's regulations requires owners or operators of part 70 sources to pay annual fees of twenty-five dollars ($25), adjusted by the CPI index, times the total tons of the actual emissions of each regulated pollutant (for presumptive fee calculation) emitted from part 70 sources, or an equivalent amount. All fees, penalties, and interest collected shall be deposited by the Mayor in a special District of Columbia Treasury fund, subject to appropriation, to carry out part 70 activities solely. The District's fee calculation, based on 1990 inventory data, shows that revenues will be able to cover the estimated costs of the program.

In chapter V. of the submittal entitled ''Permitting Program Documentation'', the District estimates revenues and costs associated with the implementation of its operating permits program. However, the District's projection of revenues is based on the August 1989 CPI value of 124.6 rather than the average 1989 CPI value of 122.15 required under the concept of presumptive minimum. Although Chapter V. demonstrates that revenues would have been adequate using the August 1989 value, section 305 requires the District to use the average 1989 value in calculating the CPI adjustment which will result in the collection of greater revenues. Until the District submits a revised fee rule accompanied by a detailed fee demonstration, the average 1989 value of 122.15 must be employed in the implementation of the chapter 3 operating permits program.

In addition to revenues obtained from the payment of emissions-based fees, the District's chapter V. projection of revenues includes revenues received from annual $200 operating fees assessed to each of the District's 38 sources. Because the imposition of the annual $200 operating fee is not authorized under any provision of the chapter 3 regulations, EPA cannot be certain that such fees will be paid. Accordingly, EPA has subtracted the revenue estimates from operating fees from total projected revenues for purposes of evaluating the adequacy of the District's fee program. The estimates of revenues from the authorized collection of emissions-based fees reveal that the District's program will have adequate funding to cover the direct and indirect costs of implementing the permit program during each of the first four years.

D. Support Materials

The District's part 70 operating permits program submittal substantially meets the requirements of 40 CFR 70.4 for an attorney general's legal opinion. Among the several issues required to be addressed in the attorney general's opinion, part 70 requires each opinion to demonstrate adequate authority for judicial review of final permit actions. Specifically, § 70.4(b)(3)(xi) requires the legal opinion to demonstrate authority to ensure that if the final permit action being challenged is the permitting authority's failure to issue or deny a permit within the required timeframes, a petition for judicial review may be filed any time before the permitting authority issues or denies the permit. Section XX. of the Corporation

Counsel's opinion cites DCMR 303.11 as the authority which fulfills this requirement. In doing so, it appears that the Corporation Counsel interprets District law such that each day which the Mayor fails to issue or deny a permit (after the permit issuance deadline) constitutes a new final action date for purposes of the 90-day judicial review petition deadline. However, the District's 303.11 regulations are vague in this regard and do not prohibit petitions for the Mayor's failure to act from being filed after the Mayor issues or denies the permit. The District must amend DCMR 303.11 to clarify that when the Mayor fails to issue or deny a permit within the required deadline, this failure can be challenged up until the time before the permitting authority denies the permit or issues the final permit.

The District's part 70 operating permits program substantially meets the requirements of 40 CFR 70.4 for a statement of adequate resources. Chapter VIII. of the District's submittal indicates that the Compliance and Enforcement Branch (CEB) of the District's Air Resources Management Division (ARMD) manages compliance and enforcement activities in the District. In chapters II., and V., the submittal indicates that title V fee revenues will support the hiring of 4 engineers in the Engineering and Planning Branch (EPB) of the ARMD who will perform engineering functions inclusive of permitting, inspections, compliance monitoring and reporting. Chapter II. of the submittal indicates that the EPB will collaborate with the CEB to carry out compliance and enforcement functions.

In order to fully meet the 40 CFR 70.4 requirement for a statement of adequate resources, the District must clarify the specific responsibilities and procedures for coordination regarding EPB and CEB involvement in compliance and enforcement activities for part 70 sources. The District must also demonstrate that compliance and enforcement activities (not including court costs or other costs associated with an enforcement action) will be fully supported by title V fees, including resources allocated to support CEB involvement in compliance and enforcement activities, if applicable.

The District's part 70 operating permits program submittal substantially meets the requirements of 40 CFR 70.4 for compliance tracking and enforcement. In order to fully meet the 40 CFR 70.4 requirement for compliance tracking and enforcement, the District must submit additional information regarding how the District will monitor and track source compliance (e.g., inspection/enforcement strategies, description of system to be used prior to/in conjunction with Aerometric Information Retrieval System (AIRS)/ AIRS Facility Subsystem (AFS) enhancements, etc.) or reference any agreement the District has with EPA that provides this information. The District must also clarify that information related to the District's enforcement actions will be submitted to EPA at least annually.

E. Provisions Implementing the Requirements of Title III

Implementing Title III Standards Through Title V Permits

Under the ''District of Columbia Air Pollution Control Act of 1984'', D.C. Law 5–165 as amended by D.C. Law 9–162, D.C. Code § 6–906 and Title 20, District of Columbia Municipal Regulations (20 DCMR), Chapter 3, the District of Columbia has demonstrated in its Title V program submittal broad legal authority to incorporate into permits and enforce all applicable requirements; however, the District has also indicated that additional regulatory authority may be necessary to carry out specific CAA section 112 activities. The District has therefore supplemented its broad legal authority with a commitment ''to adopt and implement expeditiously any additional regulations that might be needed to incorporate such requirements into operating permits.'' This is stated in the Operating Permit Program submittal, Chapter IX, entitled ''Provisions Implementing the Requirements of Other Titles of the Act'', paragraph B. EPA has determined that this commitment, in conjunction with the District of Columbia's broad statutory authority, adequately assures compliance with all the CAA's section 112 requirements. EPA regards this commitment as an acknowledgement by the District of Columbia of its obligation to obtain further legal authority as needed to issue permits that assure compliance with the CAA's section 112 applicable requirements. This commitment does not substitute for compliance with part 70 requirements that must be met at the time of program approval.

EPA is interpreting the above legal authority and commitment to mean that the District of Columbia is able to carry out all of the CAA's section 112 activities. For further rationale on this interpretation, please refer to the TSD accompanying this rulemaking which is located in the public docket and the April 13, 1993 guidance memorandum titled ''Title V Program Approval Criteria for Section 112 Activities,'' signed by John Seitz, Director, Office of Air Quality Planning and Standards, Office of Air and Radiation, USEPA.

Implementation of 112(g) Upon Program Approval

EPA is proposing to approve the District's Chapter 3 operating permits program for the purpose of implementing section 112(g) during the transition period between federal promulgation of a section 112(g) rule and District adoption of 112(g) implementing regulations. EPA had until recently interpreted the CAA to require sources to comply with section 112(g) beginning on the date of approval of the Title V program regardless of whether EPA had completed its section 112(g) rulemaking. EPA has since revised this interpretation of the CAA as described in a February 14, 1995 **Federal Register** notice (see 60 FR 83333). The revised interpretation postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. The rationale for the revised interpretation is set forth in detail in the February 14, 1995 interpretive notice.

The section 112(g) interpretive notice explains that EPA is still considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the federal rule to allow states time to adopt rules implementing the federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), the District must be able to implement section 112(g) during the transition period between promulgation of the federal section 112(g) rule and adoption of implementing District regulations.

EPA believes that, although the District currently lacks a program designed specifically to implement section 112(g), the District's Chapter 3 permit program will serve as an adequate implementation vehicle during a transition period because it will allow the District to select control measures that would meet MACT on a case-by-case basis, as defined in section 112, and incorporate these measures into federally enforceable source-specific permits. Section 112(g) requirements for case-by-case MACT determinations are governed by the provisions of 20 DCMR, sections 301.1(a)(3), 303.9, and the section 399.1 definition of ''Applicable requirement''. However, in accordance with the provisions of section 112(g), the section 301.1(a)(3) requirement to obtain an operating permit or permit revision within twelve (12) months after

commencing operation must instead be satisfied prior to construction during the transition period.

This proposed approval clarifies that the operating permits program is available as a mechanism to implement section 112(g) during the transition period between promulgation of the section 112(g) rule and adoption by the District of Columbia of rules established to implement section 112(g). EPA is proposing to limit the duration of this approval to an outer limit of 18 months following promulgation by EPA of the section 112(g) rule. Comment is solicited on whether 18 months is an appropriate period taking into consideration the District's procedures for adoption of regulations.

However, since this proposed approval is for the single purpose of providing a mechanism to implement section 112(g) during the transition period, the approval itself will be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until State regulations are adopted.

Although section 112(l) generally provides the authority for approval of state air toxics programs, title V and section 112(g) provide authority for this limited approval because of the direct linkage between implementation of section 112(g) and Title V. If the District of Columbia does not wish to implement section 112(g) through its Chapter 3 permit program and can demonstrate that an alternative means of implementing section 112(g) exists during the transition period, EPA may, in the final action approving the District of Columbia's Part 70 program, approve the alternative instead.

Program for Straight Delegation of Section 112 Standards

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the state programs contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 of the District of Columbia's program for receiving delegation of section 112 standards that are unchanged from the federal standards as promulgated. For EPA-promulgated rules which are applicable to sources in the District, the District intends to request delegation after adopting the rules by incorporation by reference. The details of this delegation mechanism will be established prior to delegating any section 112 standards under the District's approved section 112(l) program for straight delegation. This program applies to both existing and future standards but is limited to sources covered by the Part 70 program.

F. Title IV Provisions/Commitments

As part of the program submittal, the District of Columbia committed to submit all missing portions of the title IV acid rain program by January 1, 1995. On February 3, 1995, the District submitted a letter notifying EPA that the January 1, 1995 date would not be met. In this letter, the District committed to having acid rain regulations in place by November 15, 1995 and provided a brief schedule for adoption of the necessary regulatory authorities.

III. Request for Public Comments

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in this federal rulemaking action by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

Proposed Action

EPA is proposing to grant interim approval to the operating permits program submitted by the District of Columbia on January 13, 1994. The scope of the District's Part 70 program applies to all Part 70 sources (as defined in the program) within the District, except for sources of air pollution over which an Indian Tribe has jurisdiction. See, e.g., 59 FR 55813, 55815–55818 (Nov. 9, 1994). The term ''Indian Tribe'' is defined under the CAA as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' See section 302(r) of the CAA; see also 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993). Prior to full approval by EPA, the District must make the following changes:

1. Rename section 399.1 definition of ''Emissions emissions'' to ''Fugitive emissions''.

2. If EPA establishes through rulemaking that the definition of ''Title I modifications'' must include changes reviewed under minor NSR, the District's definition of ''Title I modification or modification under any provision of title I of the Act'' will not fully meet the 40 CFR 70.2 requirements for definitions. If the impact of this deficiency becomes a basis for interim approval as a result of EPA's rulemaking, the District must revise its section 399.1 definition of the term ''Title I modification or modification under any provision of title I of the Act'' to conform to the requirements of part 70. At that time, EPA will determine the required timeframe, up to two years, to correct the deficiency.

3. Modify section 301.1(b)(6)(B) to clarify that applications for permit renewal must contain both a compliance plan, as required by section 301.3(h), and a compliance certification, as required by section 301.3(i).

4. Revise section 301.3(c)(1) to ensure that all applicable requirements will be described in permit applications.

5. Revise section 301.3(g) to correct misreferenced sections of the District's regulations which address alternate operating scenarios and emissions trading.

6. Revise section 301.3(h)(3)(C) to clarify that any schedule of compliance shall be supplemental to and shall not sanction noncompliance with the applicable requirements on which it is based.

7. Revise section 302.1(k) to clarify that terms and conditions for the trading or averaging of emissions must meet all applicable requirements and the requirements of the operating permits program.

8. Renumber section 302.3(e)(6) to 302.3(f).

9. Revise section 302.4(e) to clarify that requests for coverage under a general permit must meet the permit application requirements of title V of the Clean Air Act, and include all information necessary to assure compliance with the general permit.

10. Restructure section 302.8 for operational flexibility in accordance the structure of part 70 operational flexibility provisions.

11. Revise section 302.8(b) to clarify that compliance with emissions trading provisions in a permit will be determined according to requirements of the applicable SIP/FIP or applicable requirement authorizing the emissions trade.

12. Revise sections 303.1(f) and 303.1(d)(1) to ensure that the part 70 permit issuance deadlines will be met.

13. Modify section 303.3(a) to clarify that public participation and EPA and affected state review will apply to the entire draft renewal permit, including those portions which are incorporated by reference.

14. Revise section 303.5(d)(1) to require the use of the significant permit

modification procedure for any type of change which does not qualify as either a minor permit modification or an administrative amendment.

15. Revise section 303.10 to provide for sending notice to persons on a mailing list developed by the permitting authority, including those people who request in writing to be on the list.

16. Revise section 303.10(a)(1)(B) to require the notice to include procedures to request a hearing in the event that a hearing has not been scheduled.

17. Revise section 303.10 to include a provision that requires notice of a public hearing at least 30 days in advance of the hearing.

18. Revise section 305.2(b) to clarify that the August 1989 CPI value of 124.6 will not be used for the purposes of calculating the CPI fee adjustment and that the appropriate value of 122.15, the average 1989 CPI value, will be used instead.

19. Revise section 305.1 to ensure that provisions for equivalent fee schedules are enforceable as a practical matter or remove section 305.1 language ''or the equivalent over some other period''.

20. Revise the Corporation Counsel's opinion to reference existing provisions in District of Columbia law which satisfy the requirements of § 70.11(a)(1) and (2), or establish authorities to restrain or enjoin immediately permit violators presenting substantial endangerment, and to seek injunctive relief for program and permit violations without the need for prior revocation of the permit.

21. Amend subtitle I of 20 DCMR to specifically address the types of violations for which civil fines are recoverable, or otherwise have the Corporation Counsel demonstrate that section 100.6 applies to each of the specific types of violations mentioned in § 70.11(a)(3)(i).

22. Establish civil enforcement authority for the collection of penalties in a maximum amount of not less than $10,000 per day per violation.

23. Establish regulatory provisions for strict civil liability, or provide a demonstration from the Corporation Counsel that mental state is not allowed as an element of proof for civil violations.

24. Amend Subtitle I of 20 DCMR to specifically address the types of knowing violations for which criminal fines are recoverable, or have the Corporation Counsel demonstrate that section 105.1 applies to each of the specific types of knowing violations mentioned in § 70.11(a)(3)(ii) and (iii).

25. Revise criminal enforcement provisions to authorize the collection of penalties in a maximum amount of not less than $10,000 per day per violation.

26. Amend DCMR 303.11 to clarify that when the Mayor fails to issue or deny a permit within the required deadline, this failure can be challenged any time before the permitting authority denies the permit or issues the final permit.

27. Clarify the specific responsibilities and procedures for coordination regarding EPB and CEB involvement in compliance and enforcement activities for part 70 sources. Such a clarification must demonstrate that compliance and enforcement activities (not including court costs or other costs associated with an enforcement action) will be fully supported by title V fees.

28. Submit additional information regarding how the District will monitor and track source compliance or reference any agreement the District has with EPA that provides this information.

29. Clarify that information on the District's enforcement activities will be submitted to EPA at least annually.

This interim approval, which may not be renewed, extends for a period of up to 2 years. During the interim approval period, the District is protected from sanctions for failure to have a fully approved title V, part 70 program, and EPA is not obligated to promulgate a federal permits program in the District. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon interim approval, as does the 3-year time period for processing the initial permit applications.

Requirements for approval, specified in 40 CFR 70.4(b), encompass the CAA's section 112(l)(5) requirements for approval of a program for delegation of section 112 standards applicable to Part 70 sources as promulgated by EPA. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also proposing under section 112(l)(5) and 40 CFR 63.91 to grant approval of the District's program for receiving delegation of section 112 standards that are unchanged from federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action to propose interim approval of the District of Columbia's operating permits program pursuant to title V of the CAA and 40 CFR part 70 does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 9, 1995.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 95–6929 Filed 3–20–95; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 60, No. 54
Tuesday, March 21, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Advisory Committee on Voluntary Foreign Aid (ACVFA); Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: April 12, 1995 (8:30 a.m. to 5 p.m.).

Location: State Department, Loy Henderson Auditorium, 23rd Street Entrance.

The purposes of the meeting are: To examine case studies of recent programs implemented by private voluntary organizations (PVOs) with USAID support; to extract ''lessons learned'' from these case studies; and to develop recommendations for improving future USAID/PVO collaboration.

The meeting is free and open to the public. However, notification by April 7, 1995, through the advisory committee headquarters is required. Persons wishing to attend the meeting must register with Lisa Douglas-Watson (703) 351–0243 or Susan Saragi (703) 351–0244 or FAX (703) 351–0228/0212, providing their name, organization, birthdate and social security number for security purposes.

Dated: March 14, 1995.

Louis C. Stamberg,

Office Director, Office of Private and Voluntary Cooperation, Bureau for Humanitarian Response.

[FR Doc. 95–6848 Filed 3–20–95; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 93–026–2]

RIN 0579–AA61

Introduction of Nonindigenous Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; extension of comment period and notice of public hearing.

SUMMARY: We are advising the public that an additional public hearing will be held to give interested persons in the State of Hawaii an opportunity for the oral presentation of data, views, and arguments regarding a proposed rule that would establish regulations governing the introduction (importation, interstate movement, and release into the environment) of certain nonindigenous organisms. We are also extending by 60 days the period for the public to comment on the proposed regulations.

DATES: Consideration will be given only to comments received on or before May 26, 1995. We will also consider comments made at a public hearing to be held in Honolulu, HI, on April 6, 1995, from 10 a.m. until 5 p.m.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 93–026–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 93–026–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room. The public hearing will be held at the following location: Holiday Inn at the Airport, 3401 N. Nimitz Highway, Honolulu, HI.

FOR FURTHER INFORMATION CONTACT: Dr. Matthew H. Royer, Chief Operations Officer, Biological Assessment and Taxonomic Support, PPQ, APHIS, Suite 4A01, 4700 River Road Unit 133, Riverdale, MD 20737–1228; (301) 734–8896.

SUPPLEMENTARY INFORMATION:

Background

On January 26, 1995, the Animal and Plant Health Inspection Service (APHIS) published a proposed rule in the **Federal Register** (60 FR 5288–5307, Docket No. 93–026–1) to establish regulations governing the introduction (importation, interstate movement, and release into the environment) of certain nonindigenous organisms, In that document, APHIS stated that the proposed rule appears to be necessary because the plant pest regulations under which the movement of certain nonindigenous organisms are currently regulated do not adequately address the introduction of nonindigenous organisms that may potentially be plant pests. The proposed regulations would provide a means of screening certain nonindigenous organisms prior to their introduction to determine the potential plant pest risk associated with a particular introduction.

In the proposed rule, we announced that three public hearings would be held: In Kansas City, MO. on March 6, 1995; in Sacramento, CA, on March 7, 1995; and in Washington, DC, on March 10, 1995. Since the publication of the proposed rule, we have received requests that a public hearing also be held in the State of Hawaii. In response to those requests, we have scheduled a fourth public hearing, to be held at the Holiday Inn at the Airport, 3401 N. Nimitz Highway, Honolulu, HI, on April 6, 1995.

As is the case with the tree previously scheduled hearings, the purpose of the hearing is to give interested persons an opportunity for the oral presentation of data, views, and arguments. Questions about the content of the proposed rule may be part of the commenters' oral presentations. However, neither the presiding officer nor any other representative of APHIS will respond to the comments at the hearing, except to clarify or explain provisions of the proposed rule.

A representative of APHIS will preside at the public hearing. Any interested person may appear and may be heard in person, by attorney, or by other representative. Written statements may be submitted and will be made part of the hearing record. Persons who wish to speak at a public hearing will be asked to provide their name and organization. We ask that anyone who reads a statement provide two copies to the presiding officer at the hearing.

The public hearing will begin at 10 a.m. and is scheduled to end at 5:00 p.m., local time. However, the hearing may be terminated at any time after it begins if all persons desiring to speak have been heard. If the number of speakers at the hearing warrants it, the

presiding officer may limit the time for each presentation so that everyone wishing to speak has the opportunity.

In the January 26, 1995, proposed rule, we stated that comments on the proposed rule were required to be received on or before March 27, 1995. However, to receive and consider the comments to be presented at the public hearing in Hawaii on April 6, 1995, and to accommodate persons who may wish to comment on issues that may be raised at that public hearing, we are extending by 60 days the comment period for the proposed rule. Therefore, we will consider all comments that are received on or before May 26, 1995.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–6907 Filed 3–20–95; 8:45 am]

BILLING CODE 3410–34–M

Forest Service

Carlota Copper Project, Tonto National Forest, Gila and Pinal Counties, AZ

AGENCY: Forest Service, USDA.

COOPERATING AGENCIES:

Department of Defense, U.S. Army Corps of Engineers, Los Angeles District, Arizona Field Office.

Arizona Department of Environmental Quality.

ACTION: Notice of the extension of the comment period on the draft EIS.

SUMMARY: On June 9, 1992, the USDA, Forest Service, as lead agency, issued a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for a proposal to develop a mine for copper extraction in the Pinto Creek/Powers Gulch area in the **Federal Register** (57 FR 24461). The NOI indicated a 45 day period for comments on the Draft EIS. A Notice of Availability of the Draft EIS was published by EPA in the **Federal Register** (60 FR 6710) as EIS No. 950034, Draft EIS, AFS, AZ, Carlota Open-Pit Copper Mine Project on February 3, 1995. The Forest Service, USDA, has decided to extend the review period an additional 45 days.

DATES: Comments on the Draft EIS should now be received in writing by May 11, 1995.

ADDRESSES: Send written comments to USDA Forest Service, Tonto National Forest, 2324 E. McDowell Road, Phoenix, AZ 85006, Attn: Paul Stewart.

RESPONSIBLE OFFICIAL: The Forest Supervisor, Tonto National Forest, will be the responsible official and will decide on the conditions under which the mining operations may proceed.

FOR FURTHER INFORMATION CONTACT:

Paul Stewart, Project Coordinator (602) 225–5200.

SUPPLEMENTARY INFORMATION: The Forest Service received a number of requests from both other agencies and the public to extend the review period due to the complexity of the issues and the length of the Draft EIS. After review of the extension requests, and consideration of potential impacts to the mining proponent, an additional 45 days is reasonable to provide for review of the Draft EIS. The entire comment period will total 97–100 days from the release of the Draft.

Dated: March 13, 1995.

Charles R. Bazan,

Forest Supervisor, Tonto National Forest.

[FR Doc. 95–6891 Filed 3–20–95; 8:45 am]

BILLING CODE 3410–11–M

Olympic Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic PIEC Advisory Committee will meet on April 10, 1995 at the Olympic National Forest Headquarters Office, 1835 Black Lake Blvd., S.W. Olympia, Washington. The meeting will begin at 10 a.m. and continue until 4:00 p.m. Agenda items to be covered include: (1) Context of the Advisory Committee, including background on the President's Forest Plan; (2) introduction of members and orientation; (3) operating guidelines and ground rules; (4) mission and purpose of the Province Advisory Committee; (5) relationship between the Advisory Committee and the PIEC; (6) brief presentation by Advisory Committee members on who they represent and their interests; and (7) Open public forum. All Olympic Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Kathy Snow, Province Liaison, USDA, Quilcene Ranger District, P.O. Box 280, Quilcene, WA 98376, (360) 765–2211 or Ronald R. Humphrey, Forest Supervisor, at (360) 956–2301.

Dated: March 14, 1995.

David Yates,

Land Management Planning Staff Officer.

[FR Doc. 95–6860 Filed 3–20–95; 8:45 am]

BILLING CODE 3410–11–M

Rural Housing and Community Development Service

Notice of Recipients of Fiscal Year 1994 Section 515 Loan Funds

AGENCY: Rural Housing and Community Development Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Housing and Community Development Service (RHCDS) has compiled a list of all recipients of fiscal year (FY) 1994, Section 515 loan funds. This action is taken to inform the public of recipients of FY 94 Section 515 funds. The intended effect is public awareness.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Reese-Foxworth, Loan Specialist, Multi-Family Housing Processing Division, Rural Housing and Community Development Service (RHCDS), USDA, Room 5337, South Agriculture Building, Washington, DC 20250, telephone (202) 720–1608 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.415, Rural Rental Housing Loans.

Discussion of Notice

The information available is a 74 page compilation that lists borrower names, names of the general partners, project name and location, number of units developed, and RHCDS loan amount. This information is available to all interested parties and can be obtained by writing the following address: USDA, RHCDS, Multi-Family Housing Processing Division, Room 5337–S, Washington, DC 20250. The request must be accompanied by a self-addressed, self-stamped envelope. Envelopes must be a minimum of 11″×9″ in size, and bear first class postage of $1.47. Requests without the required return envelope and postage will not be acknowledged or responded to.

Dated: March 9, 1995.

Maureen Kennedy,

Acting Administrator, Rural Housing and Community Development Service.

[FR Doc. 95–6917 Filed 3–20–95; 8:45 am]

BILLING CODE 3410–07–U

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee of Professional Associations; Notice of Public Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92–463 as amended by P.L. 94–409), we are giving notice of a meeting of the Census Advisory Committee of Professional Associations. The meeting will convene on April 27–28, 1995 at the Bureau of the Census, Conference Center, Federal Building 3, Suitland, Maryland.

The committee is composed of 36 members appointed by the presidents of the American Economic Association, the American Statistical Association, the Population Association of America, and the chairman of the board of the American Marketing Association. It advises the Director, Bureau of the Census, on the full range of Census Bureau programs and activities in relation to the areas of expertise.

The agenda for the meeting on April 27 that will begin at 9 a.m. and end at 5:15 p.m. is:

- Introductory remarks by the Director, Bureau of the Census.
- 2000 census update.
- Economic and agriculture censuses update.
- Census Bureau responses to committee recommendations.
- Standard Occupation Classification Revision Policy Committee.
- Bureauwide methodology research.
- Strategic planning.
- Communicating the benefits and usefulness of economic data.
- Initiatives to reduce reporting burden for businesses.
- Measuring output (service industries).
- Continuous measurement.
- Acquiring data through administrative records.

The agenda for the April 28 meeting that will begin at 9 a.m. and adjourn at 12:15 p.m. is:

- Mid-decade ''clean slate'' review of national accounts.
- Marketing at the Census Bureau: What does it mean and how should we do it?
- National Academy of Sciences recommendations to modernize the U.S. census.
- Develop recommendations and special interest activities.
- Closing session.

The meeting is open to the public, and a brief period is set aside on April 28 for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer at least three days before the meeting.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Census Bureau official named below.

Persons wishing additional information regarding this meeting or who wish to submit written statements may contact the Committee Liaison Officer, Mrs. Phyllis Van Tassel, Room 2419, Federal Building 3, Suitland, Maryland (mailing address: Washington, D.C. 20233), telephone: (301) 457–2494—TDD (301) 457–2540.

Dated: March 14, 1995.

Martha Farnsworth Riche,

Director, Bureau of the Census.

[FR Doc. 95–6903 Filed 3–20–95; 8:45 am]

BILLING CODE 3510–07–P

National Oceanic and Atmospheric Administration

Open Meeting of Florida Keys National Marine Sanctuary Advisory Council

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Florida Keys National Marine Sanctuary Advisory Council; notice of open meeting.

SUMMARY: The Council was established in December 1991 to advise and assist the Secretary of Commerce in the development and implementation of the comprehensive management plan for the Florida Keys National Marine Sanctuary.

TIME AND PLACE: April 4, 1995, from 9 a.m. until adjournment. The meeting location will be at the Hawk's Cay Resort, Mile Marker 61, Duck Key, Florida.

AGENDA:

1. Discussion of nomination of new officers and distribute charter for review.
2. Distribute the Draft Florida Keys National Marine Sanctuary Management Plan.
3. Receive briefing on contents of draft plan.
4. Discussion of public review process.

PUBLIC PARTICIPATION: The meeting will be open to public participation. Public comment will be received from 4:30 to 5:30. Seats will be set aside for the public and the media. Seats will be available on a first-come first-served basis.

FOR FURTHER INFORMATION CONTACT: Ben Haskell at (305) 743–2437 or June Cradick at (301) 713–3137.

Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program.

Dated: March 16, 1995.

Frank Maloney,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 95–6883 Filed 3–20–95; 8:45 am]

BILLING CODE 3510–08–M

Open Meeting of Monterey Bay National Marine Sanctuary Advisory Council

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Monterey Bay National Marine Sanctuary Advisory Council open meeting.

SUMMARY: The Advisory Council was established in December 1993 to advise NOAA's Sanctuaries and Reserves Division regarding the management of the Monterey Bay National Marine Sanctuary.

TIME AND PLACE: Friday, March 24, 1995, from 8:30 until 5:00. The meeting will be held at the Santa Cruz Holiday Inn, Sierra Room, 611 Ocean Street, Santa Cruz, California.

AGENDA: General issues related to the Monterey Bay National Marine Sanctuary are expected to be discussed, including strategic planning for the Council, update on plans to reduce elephant seal harassment at Piedras Blancas, update from the Sanctuary Manager, and reports from the working groups.

PUBLIC PARTICIPATION: The meeting will be open to the public. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Scott Kathey at (408) 647–4201 or Elizabeth Moore at (301) 713–3141.

Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program

Dated: March 16, 1995.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 95–6881 Filed 3–20–95; 8:45 am]

BILLING CODE 3510–08–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Nebraska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that the Nebraska Advisory Committee to the Commission will convene on Thursday, April 20, 1995, from 7:00 p.m. to 9:30 p.m. at the Western Nebraska Community College, 1601 East 27th Street, Scottsbluff, Nebraska 69301. The purpose of the meeting is to provide information on filing complaints of discrimination with civil rights organizations.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 816–426–5253 (TTY 816–426–5009). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 13, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–6889 Filed 3–20–95; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Pennsylvania Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will be held on Saturday, April 8, 1995, from 9:30 a.m. to 12:30 p.m. at the Sheraton University City, 36th and Chestnut Streets, Philadelphia, Pennsylvania 19102. The purpose of the meeting is to conduct project planning for the current term, elect officers, and provide orientation for newly appointed members.

Persons desiring additional information, or planning a presentation to the Committee, should contact Edward Darden, Acting Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 13, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–6890 Filed 3–20–95; 8:45 am]

BILLING CODE 6335–01–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits and Guaranteed Access Levels and Amendment of Visa Requirements for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

March 15, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing import limits and guaranteed access levels and amending visa requirements.

EFFECTIVE DATE: March 23, 1995.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A Memorandum of Understanding (MOU) dated March 3, 1995 between the Governments of the United States and Guatemala, among other things, establishes specific limits and guaranteed access levels (GALs) for certain cotton, wool and man-made fiber textile products for the period beginning on January 1, 1995 and extending through December 31, 1995.

The specific limits may be subject to revision pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC) on the date that Guatemala becomes a member of the World Trade Organization.

Beginning on March 23, 1995, the U.S. Customs Service will start signing the first section of form ITA–370P for shipments of U.S. formed and cut parts in Category 443 that are destined for Guatemala and subject to the GAL established for Category 443 for the period beginning on January 1, 1995 and extending through December 31, 1995. These products are governed by Harmonized Tariff item number 9802.00.8015 and Chapter 61 Statistical Note 5 and Chapter 62 Statistical Note 3 of the Harmonized Tariff Schedule. Interested parties should be aware that shipments of cut parts in Category 443 must be accompanied by a form ITA–370P, signed by a U.S. Customs officer, prior to export from the United States for assembly in Guatemala in order to qualify for entry under the Special Access Program.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits and GALs for certain categories for 1995 and to begin signing the first section of form ITA–370P for Category 443. Textile products in Category 443, produced or manufactured in Guatemala and exported from Guatemala on and after March 23, 1995 shall require a visa.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 59 FR 66522, published on December 27, 1994.

Requirements for participation in the Special Access Program are available in **Federal Register** notice 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; 54 FR 50425, published on December 6, 1989; and 55 FR 3079, published on January 30, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 15, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Effective on March 23, 1995, you are directed to cancel the counting letter issued to you on December 14, 1994 by the Chairman, Committee for the Implementation of Textile Agreements which directed you to count imports of wool textile

products in Category 443 for the period beginning on November 21, 1994 and extending through November 20, 1995.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and a Memorandum of Understanding (MOU) dated March 3, 1995 between the Governments of the United States and Guatemala; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 23, 1995, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Guatemala and exported during the period beginning on January 1, 1995 and extending through December 31, 1995, in excess of the following restraint limits:

Category	Twelve-month limit [1]
340/640	1,080,379 dozen.
347/348	1,293,629 dozen.
351/651	227,900 dozen.
443	68,344 numbers.
448	42,821 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

Imports charged to these category limits, except Category 443, for the period January 1, 1994 through December 31, 1994 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

Should Guatemala become a member of the World Trade Organization (WTO), the limits set forth above will be subject to adjustment in the future pursuant to the Uruguay Round Agreement on Textiles and Clothing and any administrative arrangements notified to the Textiles Monitoring Body.

For visa purposes, you are directed, effective on March 23, 1995, to amend further the directive dated January 24, 1990 to require a visa for textile products in Category 443, produced or manufactured in Guatemala and exported from Guatemala on and after March 23, 1995. Goods in Category 443 which are exported during the period March 23, 1995 through April 22, 1995 shall not be denied entry for the lack of a visa. Goods in Category 443 which are exported after April 22, 1995 must be accompanied by an appropriate export visa.

Beginning on March 23, 1995, the U.S. Customs Service is directed to start signing the first section of the form ITA–370P for shipments of U.S. formed and cut parts in Category 443 that are destined for Guatemala and re-exported to the United States on and after March 23, 1995.

Additionally, pursuant to the Memorandum of Understanding dated March 3, 1995 between the Governments of the United States and Guatemala; and the terms of the Special Access Program, as set forth in 51 FR 21208 (June 11, 1986), 52 FR 26057 (July 10, 1987) and 54 FR 50425 (December 6, 1989), effective on March 23, 1995, guaranteed access levels are being established for properly certified textile products assembled in Guatemala from fabric formed and cut in the United States in the following categories which are re-exported to the United States from Guatemala during the period January 1, 1995 through December 31, 1995:

Category	Guaranteed access level
340/640	520,000 dozen.
347/348	1,000,000 dozen.
351/651	200,000 dozen.
443	25,000 numbers.
448	42,000 dozen.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification and Export Declaration in accordance with the provisions of the certification requirements established in the directive of January 24, 1990, as amended, shall be denied entry unless the Government of Guatemala authorizes the entry and any charges to the appropriate specific limit. Any shipment which is declared for entry under the Special Access Program but found not to qualify shall be denied entry into the United States.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–6857 Filed 3–20–95; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Combat Identification

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Combat Identification will meet in closed session on April 18–19, May 9–10, and June 13–14, 1995 at the MITRE Corporation, Bedford, Massachusetts.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense (Acquisition and Technology) on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will evaluate the DoD long term strategy and plan for development and fielding of a comprehensive situational awareness (SA) and combat identification (CID) architecture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: March 16, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–6956 Filed 3–20–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Granting of Exclusive License

AGENCY: U.S. Army Research Laboratory, DOD.

ACTION: Notice of intent.

In accordance with 37 CFR 404.7(a)(I)(i), announcement is made of a prospective exclusive license of U.S. Patent Nos. 4,754,237, entitled, ''Switchable Millimeter Wave Microstrip Circulator;'' 4,749,966, entitled, ''Millimeter Wave Microstrip Circulator;'' and 4,862,117, entitled, ''Compact Millimeter Wave Microstrip Circulator.''

DATES: Written objections or comments must be filed on or before May 22, 1995.

ADDRESSES: Commander, U.S. Army Communications-Electronics Command, ATTN: AMSEL–LG–L, Fort Monmouth, NJ 07703–5010.

FOR FURTHER INFORMATION CONTACT: Mr. William H. Anderson, (908) 532–4112.

SUPPLEMENTARY INFORMATION: The inventions described in the above mentioned patents relate to Y-junction or cone-shaped circulators that are based on ferrite materials. U.S. Patent No. 4,754,237 was filed on September 21, 1987, given serial number 99,371, and issued to Stern and Babbit on June 28, 1988; U.S. Patent No. 4,749,966 was filed July 1, 1987, given Serial number 68,394 and issued to Stern and Babbit on June 7, 1988, U.S. Patent No. 4,862,117 was filed on January 27, 1989, given Serial Number 302,509, and issued to Stern and Babbit on August 28, 1989.

Rights to these United States Patents are owned by the United States of America, as represented by the Secretary of the Army. Under the authority of section 11(a)(2) of the Federal Technology Transfer Act of

1986 (Pub. L. 99–502) and section 207 of title 35, United States Code, the Department of the Army, as represented by the U.S. Army Research Laboratory, intends to grant a limited term exclusive license for the above mentioned patents to Princeton Microwave Technology, Inc., a New Jersey manufacturer with principal offices at 3 Nami Lane, Unit 10, Mercerville, New Jersey 98619.

Pursuant to 37 CFR 404.7(a)(I)(i), any interested party may file written objections to this prospective exclusive license arrangements. Written objections should be directed to the above address.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 95–6834 Filed 3–20–95; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Joint Draft Environmental Impact Statement (EIS)/Environmental Impact Report (EIR)

AGENCY: U.S. Army Corps of Engineers, Sacramento District, DOD.

ACTION: Notice of intent.

SUMMARY: To prepare a joint draft Environmental Impact Statement (EIS)/ Environmental Impact Report (EIR) for the proposed aggregate mining of approximately 1250 acres of land within the Morrison Creek Drainage Basin north of Highway 16, Sacramento County, California. The area evaluated by the EIR/EIS is bounded roughly by Kiefer Boulevard to the north, Excelsior Road to the east, Jackson Road (Highway 16) to the south and Bradshaw Road to the west.

ADDRESSES: U.S. Army Engineer District, Sacramento, 1325 J Street, Sacramento, California 95814–2922.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Shaffer, (916) 557–5269.

SUPPLEMENTARY INFORMATION: There are three mining areas within the 1250 acre study area. They are known as Aspen V North, Aspen VI and Granite I. Teichert Aggregates and Granite Construction Company have each applied to the Corps of Engineers for Department of the Army permits pursuant to Section 404 of the Clean Water Act. These applications are being evaluated jointly because they are adjacent to one another and propose to share planning and cost of reclamation and mitigation. Teichert proposes to impact 42.88 acres of wetlands and other waters subject to DOA jurisdiction on their Aspen VI site, while Granite's impacts amount to 16.16 acres of wetlands and other waters subject to DOA jurisdiction on their Granite I site. Aspen VI and Granite I, combine for a total of 1061 acres in size with a total of 59.04 acres of waters of the United States being impacted. The Teichert site known as Aspen V North is approximately 184 acres in size with no jurisdictional waters of the United States. Presently, Aspen VI and Granite I consist of relatively flat terrain with Morrison Creek running through roughly from north east to south west and Mather Drain running through roughly from north to south. Granite I and Aspen VI are used for grazing and Aspen V North is relatively flat and is used for farming except in some areas that have already been mined. Because Aspen V North has no waters of the United States and can continue to be mined without a Department of the Army permit, the applicants have proposed to use the reclaimed pit as the mitigation area for vernal pool creation. In this way, the pools can be built on the Aspen V North site as they are impacted on the Aspen VI and Granite I sites with less temporal loss. The applicants proposed to reroute Mather Drain and Morrison Creek into a bypass channel that will be construed at the present grade. Low flows and flood flows will be directed to the pit floor where the applicants propose to mitigate for project impacts to seasonal wetlands and creek channel. The pit floor will also serve as a detention basin for storm water during peak flows.

Alternatives

The alternatives being considered at this time are:

a. Aggregate mining on site as proposed by the applicants.

b. Downsizing mining operation on site so as to avoid some waters of the United States.

c. Alternative site location.

d. No action (no project alternative).

Significant Issues

The significant issues which have been identified to date and which will be analyzed in the report are:

a. The need for additional aggregate material in Sacramento.

b. Impacts to wetlands and ability to create vernal pools on a reclaimed pit floor.

c. Impacts to threatened and endangered species.

d. Impacts to wildlife.

e. Impacts to the hydrology of the Morrison Creek drainage basin.

f. Need for flood storage on the Morrison Creek drainage basin.

g. Impacts to water quality.

h. Impacts to traffic (alternative site location).

i. Impacts to aesthetics.

j. Impacts to noise levels.

Other Environmental Review and Consultation

Environmental review and consultation as required by Sections 401 and 404 of the Clean Water Act, as amended (33 U.S. Code 1341 and 1344); the Fish and Wildlife Coordination Act (16 U.S. Code 661 *et seq.*); the National Historic Preservation Act of 1966, as amended (16 U.S. Code 470 *et seq.*); the Endangered Species Act of 1973, as amended (16 U.S. Code 1531 *et seq.*); Executive Order 11990, ''Protection of Wetlands,'' 24 May 1977; and other applicable statutes or regulations will be conducted concurrently with the EIR/ EIS review process.

Another joint draft EIR/EIS is being prepared concurrently for the Morrison Creek drainage basin south of Highway 16. This report will focus on the following mining projects: Granite Vineyard, Aspen III South, Aspen IV South and Aspen V South. Both EIR/EIS documents will evaluate impacts to the entire Morrison Creek drainage basin within cumulative impacts.

The Sacramento District of the U.S. Army Corps of Engineers will issue a 30-day public notice, concurrently with this notice, to initiate the scoping process. The public notice will be sent to all known, interested parties; and will request that the reviewers provide comments on the topical scope, alternatives, and major issues to be covered in the Draft EIR/EIS. We intend to accomplish the scoping process in this manner; however, if it is perceived that this method is not adequate, the need for a public scoping meeting will be considered.

Schedule

We estimate the draft EIR/EIS will be made available to the public in May 1995.

Questions concerning the proposed action and Draft EIR/EIS should be addressed directly to Ms. Karen Shaffer, Regulatory Branch, U.S. Army Corps of Engineers, 1325 J Street, Room 1444, Sacramento, California 95814–2922, telephone (916) 557–5269.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 95–6833 Filed 3–20–95; 8:45 am]

BILLING CODE 3710–GH–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Request

AGENCY: Department of Education.

ACTION: Notice of proposed information collection request.

SUMMARY: The Acting Director, Information Resources Group, invites comments on the proposed information collection request as required by the Paperwork Reduction Act of 1980.

DATES: An emergency review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by March 21, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer: Department of Education, Office of Management and Budget, 726 Jackson Place NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets SW., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State of Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Information Resources Group, publishes this notice with attached proposed information collection requests prior to submission to OMB. For each proposed information collection request, grouped by office this notice contains the following information: (1) Type of review requested, e.g., new, extension, existing, or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting and/or Recordkeeping burden; and (6) Abstract. Because an emergency review is requested, the additional information to be requested in this collection is included in the section on ''Additional Information'' in this notice.

Dated: March 15, 1995.

Kent Hannaman,

Acting Director, Information Resources Group.

Office of Bilingual Education and Minority Languages Affairs

Type of Review: Emergency.
Title: Compliance with Statutory Requirements.
Abstract: Grantees under previous law (P.L. (100–297) must comply with the new requirements under Public Law 103–382—October 20, 1994. Grantees required to comply include State educational agencies, local educational agencies, institutions of higher education and non-profit organizations.
Additional Information: OMB approve is requested for March 21, 1995. An Emergency review will allow the Department of Education to make continuation grants awards before the end of the fiscal year.
Frequency: One time.
Affected Public: Business or other for-profit; Not-for-profit institutions; Federal government; State, Local or Tribal government.
Reporting Burden:
Responses: 74.
Burden Hours: 1,319.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.

[FR Doc. 95–6836 Filed 3–20–95; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) was requested by March 10, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Group, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: March 15, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Expedited
Title: Application for Grants Under Magnet Schools Assistance Programs
Frequency: Annually
Affected Public: State, Local or Tribal Government
Reporting Burden:
Responses: 150
Burden Hours: 3,750
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by Local Educational agencies to apply for funding under the Magnet Schools Assistance Program. The Department will use the information to make grant awards.
Additional Information: Clearance for this information collection was

requested for March 10, 1995. An expedited review is requested in order to implement this high priority program as soon as possible.

[FR Doc. 95–6835 Filed 3–20–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP91–203–000, et al. (Phase II)]

Tennessee Gas Pipeline Co.; Notice of Informal Settlement Conference

March 16, 1995.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, March 22, 1995, at 2:00 p.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Dennis H. Melvin (202) 208–0042 or Donald Williams (202) 208–0743.

Lois D. Cashell,

Secretary.

[FR Doc. 95–6839 Filed 3–20–95; 8:45 am]

BILLING CODE 6717–01–M

Western Area Power Administration

Parker-Davis Project—Proposed Firm Power Rate and Firm and Nonfirm Transmission Service Rates

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed Parker-Davis Project power rate and firm and nonfirm transmission rate adjustments.

SUMMARY: The Western Area Power Administration (Western) is initiating rate adjustments for firm power and firm and nonfirm transmission service for the Parker-Davis Project (P–DP). The power repayment study and other analyses indicate that the revenues required to pay all annual costs (including interest expense), plus repayment of required investment within the allowable time period has decreased by approximately $4.7 million since the last rate adjustment. The proposed P–DP rates for firm power and firm and nonfirm transmission service are expected to become effective October 1, 1995, and will supersede the existing step two rates.

On January 6, 1994, the Deputy Secretary of the Department of Energy (DOE) approved the existing rates for firm power and firm and nonfirm transmission service on an interim basis. The existing rates for firm power and firm and nonfirm transmission service were placed in effect on February 1, 1994, and consisted of a two-step rate adjustment. Step one of the existing rates was effective February 1, 1994, through September 30, 1995, and step two of the existing rates was to be effective on October 1, 1995, through January 31, 1999. The Federal Energy Regulatory Commission (FERC) confirmed and approved the rates on October 14, 1994.

During this last P–DP rate adjustment process (WAPA–55), the Arizona Power Pooling Association, Inc.; Arizona Power Authority; and the Arizona Customer Group filed Motions To Intervene and Protest FERC's confirmation and approval of the P–DP rates described in Rate Order No. WAPA–55. On August 19, 1994, Western filed a Stipulation Agreement signed by Western and these customers in which the intervenors withdrew any protest and Western agreed to re-examine the issues raised as well as commence a new rate adjustment proceeding during fiscal year 1995.

Western has re-examined the issues raised during the last rate adjustment process and has developed proposed P–DP rates to supersede step two of the existing rates which were to become effective October 1, 1995, for firm power and firm and nonfirm transmission service. The major differences between step two of the existing rates and the proposed P–DP rates resulted from several activities which involved Western working in partnership with the P–DP customers. First, future revenue requirements were reduced by controlling Western's operation and maintenance costs, and by decreasing the construction and replacement program through the Engineering Ten Year Planning Process. The Engineering Ten Year Planning Process includes a decision making partnership among P–DP customers and Western.

Second, Western revised the allocation of costs between the power and transmission customers which is described in a Costs Apportionment Study. A working group including customer representatives, Western, and the Bureau of Reclamation was formed to analyze the issues and concerns expressed by the customers during the last rate adjustment process on how costs were allocated between power and transmission. The working group derived a new methodology for allocating these costs in a manner deemed equitable. The new methodology also meets the concerns of both P–DP customers and Western.

Third, the working group developed a revised rate design methodology using the results from the Costs Apportionment Study. The results from the Costs Apportionment Study were applied to total revenue requirements instead of incremental revenue requirements as was done to derive step two of the existing rates.

When compared to step two of the existing rates, the activities stated resulted in a rate decrease for firm power customers and a rate increase for firm and nonfirm transmission customers.

The proposed P–DP rates provide for an energy rate of 1.91 mills per kilowatthour (mills/kWh) and a capacity rate of $2.06 per kilowatt/month (kW/month) for a composite rate of 6.62 mills/kWh. The proposed P–DP rates for transmission service provide for a firm transmission service rate of $13.28 per kilowatt/year (kW/year) and a nonfirm transmission service rate of 2.53 mills/kWh for P–DP and a firm transmission service rate for the Salt Lake City Area/Integrated Projects (SLCA/IP) of $6.64/kW/season. The SLCA/IP transmission service is for the SLCA/IP customers' seasonal use of the P–DP transmission system.

Table One compares step two of the existing rates with the proposed P–DP rates.

TABLE ONE

Type of service	Step two of the existing rates October 1, 1995, through January 31, 1999	Proposed rates October 1, 1995, through September 30, 2000	Percent change (%)
Composite Rate	12.01 mills/kWh	6.62 mills/kWh	−45
Energy Rate	6.01 mills/kWh	1.91 mills/kWh	−68
Capacity Rate	$2.63 per kW/month	$2.06 per kW/month	−22
Firm Transmission Service	$12.55 per kW/year	$13.28 per kW/year	6
Nonfirm Transmission Service	2.39 mills/kWh	2.53 mills/kWh	6
Transmission Service for SLCA/IP	$6.27 per kW/season	$6.64 per kW/season	6

Overall, annual revenue requirements for the proposed rates has slightly increased as compared to step one of the existing rates and has decreased as compared to step two of the existing rates. Table Two shows a comparison of the annual revenue requirements for step one of the existing rates, step two of the existing rates, and the proposed rates.

TABLE TWO

Step one of the existing rates (February 1, 1994, through September 30, 1995)	Step two of the existing rates (October 1, 1995, through January 31, 1999)	Proposed rates (October 1, 1995, through September 30, 2000)
$37,209,290	$42,099,987	$37,385,908

Since the proposed P–DP rates constitute a major rate adjustment as defined by the procedures for public participation in general rate adjustments, as cited below, both a public information forum and a public comment forum will be held. After review of public comments, Western will recommend proposed P–DP rates for approval on an interim basis by the Deputy Secretary of DOE (Deputy Secretary).

DATES: The consultation and comment period will begin with publication of this notice in the **Federal Register** and will end not less than 90 days later, or June 21, 1995, whichever occurs last. A public information forum will be held at 9:30 a.m. on April 5, 1995, at Western's Phoenix Area Office, 615 South 43rd Avenue, Phoenix, Arizona. A public comment forum at which Western will receive oral and written comments will be held at 9:30 a.m. on May 15, 1995, also at Western's Phoenix Area Office.

Written comments should be received by Western by the end of the consultation and comment period to be assured consideration and should be sent to the address below.

FOR FURTHER INFORMATION CONTACT: Mr. J. Tyler Carlson, Area Manager, Western Area Power Administration, Phoenix Area Office, P.O. Box 6457, Phoenix, AZ 85005, (602) 352–2453.

SUPPLEMENTARY INFORMATION: Power and transmission rates for the P-DP are established pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*), the Reclamation Act of 1902 (43 U.S.C. 392 *et seq.*), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and the Act of May 28, 1954 (ch. 241, 68 Stat. 143).

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of Energy (Secretary) delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of Western; (2) the authority to confirm, approve, and place such rates in effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the FERC. Existing DOE procedures for public participation in rate adjustments (10 CFR Part 903) became effective on September 18, 1985 (50 FR 37837).

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the proposed P-DP rates for firm power and firm and nonfirm transmission service are and will be made available for inspection and copying at the Phoenix Area Office, 615 South 43rd Avenue, Phoenix, Arizona 85005.

Determination Under Executive Order 12866

DOE has determined that this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866, 58 FR 51735. Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*; Council on Environmental Quality Regulations (40 CFR Parts 1500–1508); and DOE NEPA Regulations (10 CFR Part 1021), Western has determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

Issued in Golden, Colorado, March 10, 1995.

J. M. Shafer,

Administrator.

[FR Doc. 95–6913 Filed 3–20–95; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5175–7]

Acid Rain Provisions

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA announces extension of the April 1, 1994 and April 1, 1995 deadlines for small diesel refineries to request allowances under the Acid Rain Program. These deadlines are extended to May 15, 1995. This extension is warranted by confusion regarding small diesel refinery eligibility for allowance allocations.

FOR FURTHER INFORMATION CONTACT: Kathy Barylski, EPA Acid Rain Division (6204J), 401 M Street., SW., Washington DC 20460; telephone (202) 233–9074.

SUPPLEMENTARY INFORMATION:

1. Background

Title IV of the Clean Air Act Amendments of 1990 (CAAA) established the Acid Rain Program to reduce acid rain in the United States. The Acid Rain Program will achieve a 50 percent reduction in sulfur dioxide (SO_2) emissions from utility units. The SO_2 reduction program is a flexible market-based approach to environmental management. As part of this approach, EPA allocates ''allowances'' to affected utility units. Each allowance is a limited authorization to emit up to one ton of SO_2. At the end of each calendar year, each unit must hold allowances in an amount equal to or greater than its SO_2 emissions for the year. Allowances may be bought, sold, or transferred between utilities and other interested parties.

Section 410(h) of the Clean Air Act provides allowances for small diesel refineries that produce diesel fuel that meets the requirements of section 211(i) (that ''desulfurize'' diesel fuel) during the period from October 1, 1993 through December 31, 1999. Section 410(h) limits the annual allocations to small diesel refineries to 35,000, as compared to the 8.95 million allowances for Phase II utilities. Also, each eligible small diesel refinery is limited to 1500 allowances per year. Small diesel refineries are not otherwise affected by the Acid Rain Program and do not need the allowances to comply with any provision of the Clean Air Act. Thus, the allowances serve as a financial benefit to small diesel refineries desulfurizing diesel fuel.

2. Clarification of Eligibility

The preamble to both the proposed (56 FR 29940, July 7, 1992) and final rules (57 FR 15645, March 23, 1993) concerning the allocation of acid rain allowances to small refineries stated that only small diesel refineries that desulfurized both on-road and off-road diesel fuels would be eligible for allowances. However, the text of the rule allowed all small refineries desulfurizing diesel fuel eligible to receive allowances. 40 CFR 73.90.

The purpose of today's notice is to remedy any confusion caused by the language in both preambles and to provide all eligible small refiners with an opportunity to participate in the allowance program. This notice clarifies that small refineries do not have to desulfurize all diesel fuel to be eligible for allowances and supersedes the preamble language.

Contrary to assertions EPA made in the preamble to the final rule, nothing in section 410(h) clearly requires a small refiner to desulfurize all of its on-road diesel fuel as well as all of its off-road diesel fuel to obtain allowances. In particular, the declaration in the preamble that the section 410(h)(6) certification provision is ''insistent'' on both on-road and off-road diesel fuel being desulfurized ignores alternative interpretations of the certification language that would simply read it to require that allowances could be claimed only for the fuel that meets the section 211(i) standard. Rather than reading the certification to impose a substantive requirement not expressed elsewhere in section 410(h), the better reading of the subsection as a whole is that allowances may be claimed for all motor diesel fuel meeting section 211(i) that is produced at the small refinery. This interpretation is consistent with the statute and the text of the regulation and has been EPA policy in applying the regulation to the requests for allowances for 1993 fuel desulfurization.

EPA will consider a small diesel refinery eligible for allocation of allowances based solely on the requirements in the definition of ''small diesel refinery'' at 40 CFR 72.2. A small diesel refinery does not have to certify that it desulfurizes both on-road and off-road diesel fuel.

3. Extension of 1994 and 1995 Filing Deadlines

EPA acknowledges that the preamble to the final rule, when compared to the rule itself, created confusion as to the criteria for eligibility. In implementing this program, EPA has followed the statutory criteria, as implemented at 40 CFR 73.90 and 72.2.

After EPA provided notice of the allowances allocated to small diesel refineries in 1994 (59 FR 34811, July 7, 1994), several small refineries notified EPA that some refineries that had not desulfurized 100 percent of their diesel throughput were allocated allowances. The commenting refineries argued that these refineries, based on the criteria stated in the preamble to the rule, should not be eligible for allowances. The small refineries that notified EPA sought to be deemed eligible for allowances, in addition to the group listed in the **Federal Register** notice.

In order to be fair to all small diesel refineries, EPA is extending the April 1, 1994 deadline until May 15, 1995. Refineries that did not apply for certification of eligibility or request allowances for 1993 desulfurization because they thought they were not eligible should apply for certification of eligibility and request allocations no later than May 15, 1995. All refineries that wish to be allocated allowances for 1994 desulfurization must request allocations no later than May 15, 1995. For each year in the future, the date for requests remains April 1.

Dated: March 15, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95–6924 Filed 3–20–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5175–6]

Flow Control and Municipal Solid Waste; Availability of Report to Congress

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of a Report to Congress on Flow Control and Municipal Solid Waste. Flow controls are legal provisions that allow state and local governments to designate where Municipal Solid Waste (MSW) must be taken for processing, treatment, or disposal. These designated facilities may hold local monopolies on MSW and/or recoverable materials because of flow controls. Consequently, flow control has become a heavily debated issue among state and local governments, the waste management industry, the recycling industry, and environmental groups.

The 102nd Congress directed the Environmental Protection Agency (EPA) to review flow control as a form of MSW management. Congress asked EPA to: (1) Review and compare states with and without flow control authority; (2) identify the impact of flow controls on human health and the environment; and (3) describe the impacts of flow control on the development of state and local waste management, and on the achievement of state and local goals set for source reduction, materials reuse, and recycling.

The Report indicates that flow controls are an administratively efficient tool for local governments to plan and fund solid waste management systems. However, protection of human health and the environment is directly related to the implementation and enforcement of federal, state, and local environmental regulations, and not to

the existence of flow control measures. Data also indicate that flow control is not essential for developing MSW capacity or for achieving recycling goals.

The Agency examined flow control nation-wide, finding that 35 states, the District of Columbia, and the Virgin Islands authorize flow control directly. Four additional states authorize flow control indirectly through mechanisms such as solid waste management plans and home rule authority. Eleven states do not have flow control authority. It is important to recognize that the Report presents a national perspective on flow control, and that the needs and objectives of state and local jurisdictions may differ significantly from a national viewpoint. Factors such as local waste generation rates, financial and market conditions, demographics, and the local economy affect the planning and implementation of solid waste management systems.

ADDRESSES: Paper copies of the full Report are available from the National Technical Information Service (NTIS) at 1–703–487–4650. The document number is PB95–179 263 (EPA530–R–95–008). Copies of the Report's Executive Summary (EPA530–S–95–008) are free, and may be obtained by calling the RCRA/Superfund Hotline at 1–800–424–9346; 1–800–553–7672 (TDD).

EPA is making these documents available electronically. The Agency is interested in learning whether people have obtained them electronically and what their experiences were in doing so. You are encouraged to provide feedback on the electronic availability of these documents by sending E-mail to OSW-Pilot @epamail.epa.gov. The Report and the Executive Summary can be accessed in electronic format on the Internet System through:

EPA Public Access Gopher Server: Go to gopher.epa.gov; from the main menu, choose ''EPA Offices and Regions''; next, choose ''Office of Solid Waste and Emergency Response (OSWER)''; finally, choose ''Office of Solid Waste/Nonhazardous/Municipal Solid Waste/General.''

Through FTP: Go to ftp.epa.gov; Login: anonymous; Password: Your Internet Address. Files are located in directories/pub/gopher. All OSW files are in directories beginning with ''OSW.''

Through MOSAIC: Go to http://www.epa.gov; choose the EPA Public Access Gopher; from the main (Gopher) menu, choose ''EPA Office and Regions.'' Next, choose ''Office of Solid Waste and Emergency Response (OSWER).'' Finally, choose ''Office of Solid Waste/Nonhazardous/Municipal Solid Waste/General.''

Through Dial-up Access: Dial 919–558–0335. Choose EPA Public Access Gopher. From the main (Gopher) menu, choose ''EPA Offices and Regions''; then ''Office of Solid Waste and Emergency Response (OSWER)''; finally, ''Office of Solid Waste/Nonhazardous/Municipal Solid Waste/General.''

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline at 1–800–424–9346 or 1–800–553–7673 (TDD); in the Washington, DC metropolitan area, 703–412–9810 or 703–412–3323 (TDD). For technical information on specific aspects of the Report, contact Angie Leith (5306), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (703) 308–7253.

Dated: March 15, 1995.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 95–6925 Filed 3–20–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5175–5]

Common Sense Initiative Council, Computers and Electronics Sector Subcommittee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Common Sense Initiative Council, Computer and Electronics Sector Subcommittee, notice of meeting.

SUMMARY: The Environmental Protection Agency established the Common Sense Initiative Council (CSIC) on October 17, 1994, to provide independent advice and counsel to EPA on environmental issues associated with the electronics and computer industry and other industrial sectors. The charter was authorized through October 17, 1996, under regulations established by the Federal Advisory Committee Act (FACA). The Computer and Electronics Subcommittee (CSIC–CES) operates as a subcommittee of the CSIC.

OPEN MEETING NOTICE: Notice is hereby given that the CSIC–CES Subcommittee will hold an open meeting on Wednesday, April 12, from 8:30 a.m. to 5:00 p.m., and Thursday, April 13, from 8:30 a.m. to 3:00 p.m., at the Hyatt Regency Crystal City, Regency Ballroom, 2799 Jefferson Davis Highway, Arlington, VA 22202. Seating will be available on a first-come, first-serve basis.

The meeting will include review and discussion of subcommittee operating principles, discussion of subcommittee information needs, review and approval of proposed workplan items, formation of workgroups for accepted workplan items, and presentations on ongoing related Agency activities. Opportunity for public comment on major issues under discussion will be provided at intervals throughout the meeting.

INSPECTION OF COMMITTEE DOCUMENTS: Documents relating to the above noted topics will be publicly available at the meeting. Thereafter, these documents, together with the CSIC–CES meeting minutes, will be available for public inspection in room 2417M of EPA Headquarters, 401 M Street SW., Washington, DC, phone (202) 260–7417.

FOR FURTHER INFORMATION CONTACT: Concerning this meeting of the CSIC–CES, please contact Gina Bushong, US EPA (202) 260–3797, FAX (202) 260–1096, or by mail at US EPA (7405), 401 M Street SW., Washington, DC 20460; Mark Mahoney, Region 1, US EPA, (617) 565–1155; or Dave Jones, Region 9, U.S. EPA, (415) 744–2266.

Dated: March 15, 1995.

Gina Bushong,

Designated Federal Officer.

[FR Doc. 95–6927 Filed 3–20–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5175–1]

Maryland Department of the Environment: Partial Program Adequacy Determination of State/Tribal Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency Region 3.

ACTION: Notice of tentative determination on the Maryland Department of the Environment's application for a partial program adequacy determination, public hearing and public comment period.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR Part 258). RCRA Section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate ''permit'' programs for

MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The EPA intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The EPA believes that early approvals have an important benefit. Approved State/Tribal permit programs provide interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by Part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities.

The Maryland Department of the Environment (MDE) applied for a partial determination of adequacy under section 4005 of RCRA. EPA reviewed MDE's application and made a tentative determination of adequacy for those portions of the MDE's MSWLF permit program that are adequate to assure compliance with the revised MSWLF Criteria. These portions are described later in this notice. The MDE plans to revise the remainder of its permit program to assure complete compliance with the revised MSWLF Criteria and gain full program approval. MDE's application for partial program adequacy determination is available for public review and comment.

All municipal solid waste landfilled in Maryland must be disposed in a landfill which meets these criteria. This includes all ash from municipal solid waste incinerators which is determined to be non-hazardous.

Although RCRA does not require EPA to hold a public hearing on a determination to approve any State/Tribe's MSWLF program, the EPA Region 3 has scheduled a public hearing on this determination on the date given below in the **DATES** section.

DATES: All comments on MDE's application for a partial determination of adequacy must be received by EPA Region 3 by the close of business on May 19, 1995. A public hearing will be held on Wednesday, May 17, 1995, from 10:00 am until 1:00 pm for the purposes of soliciting public comment on this tentative determination.

ADDRESSES: Written comments should be sent to U.S. EPA Region 3, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Attn: Mr. Christopher B. Pilla, mailcode (3HW50). Copies of MDE's application for partial adequacy determination are available from 9 a.m. to 4 p.m. at the following addresses for inspection and copying: Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224, Attn: Mr. Edward Dexter, telephone 410–631–3364; and U.S. EPA Region 3, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Attn: Mr. Andrew R. Uricheck, mailcode (3HW50), telephone 215–597–7936. The hearing will he held at the Maryland State Office Complex at 300 West Preston Street, Baltimore, Maryland. MDE will attend the public hearing.

FOR FURTHER INFORMATION CONTACT: U.S. EPA Region 3, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Attn: Mr. Andrew R. Uricheck, mailcode (3HW50) and telephone 215–597–7936.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR Part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria under Part 258. Subtitle D also requires in section 4005 that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the EPA has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to propose in STIR to allow partial approvals if: (1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with Part 258; (2) changes to a limited part(s) of the State/Tribal permit program are needed to meet these requirements; and (3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of Part 258. These requirements when promulgated, will address the potential problems posed by the dual State/Tribal and Federal regulatory controls following the October 1993 effective dates of the Federal rule. On that date, Federal rules covering any portion of a State/Tribe's program that had not received EPA approval became enforceable through the citizen suit provisions of RCRA 7002. Owners and operators of MSWLFs subject to such dual programs must understand the applicable requirements and comply with them. In addition, those portions of the Federal program that are in effect must mesh well enough with the approved portions of the State/Tribal program to leave no significant gaps in regulatory control of MSWLF's. Partial approval would allow the EPA to approve those provisions of the State/Tribal permit program that meet the requirements and provide the State/Tribe time to make necessary changes to the remaining portions of its program. As a result, owners/operators will be able to work with the State/Tribal permitting agency to take advantage of the Criteria's flexibility for those portions of the program which have been approved.

As provided in the October 9, 1991 municipal landfill rule, EPA's national Subtitle D standards took effect in October 1993 in any State/Tribe that lacks an approved program. Consequently, any remaining portions of the Federal Criteria which are not included in an approved State/Tribal program by October 1993 would apply directly to the owner/operator. On July 28, 1993, EPA proposed to modify the effective date of the landfill criteria for certain classifications of landfills (50 *FR* 40568).

EPA intends to approve portions of State/Tribal MSWLF permit programs prior to the promulgation of STIR. EPA interprets the requirements for States or Tribes to develop ''adequate'' programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/

Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an ''adequate'' program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

EPA also is requesting States/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. EPA notes that it intends to propose to make submission of a schedule mandatory in STIR.

B. State of Maryland

On August 26, 1993, MDE submitted a complete application (dated July 15, 1993) for a partial program adequacy determination. In response to EPA comments on their initial application, MDE submitted additional information, including letters dated October 4, 1994, and December 15, 1994. EPA reviewed MDE's application and this additional information and has tentatively determined that the following portions of the State/Tribe's municipal solid waste landfill permitting program will ensure compliance with the revised Federal Criteria.

Subpart A—General

The existing Maryland requirements fully comply with 40 CFR Section 258.1, Purpose, Scope, and Applicability. MDE permit application checklists and internal guidance have been revised to fully incorporate the requirements of § 258.2, Definitions and § 258.3, Consideration of other Federal laws.

Subpart B—Location Restrictions

1. The existing Maryland requirements fully comply with § 258.11, Floodplains.

2. MDE permit application checklists and internal guidance have been revised to incorporate the requirements of § 258.10, Airport Safety; § 258.12, Wetlands; § 258.13, Fault areas; § 258.14, Seismic Impact Zones; § 258.15, Unstable Areas; and § 258.16, Closure of Existing Landfill Units.

Subpart C—Operating Criteria

1. The existing Maryland requirements fully comply with:
§ 258.20, Hazardous Waste Exclusion;
§ 258.21, Daily Cover;
§ 258.22, Disease Vectors Control;
§ 258.24, Air Criteria;
§ 258.25, Access requirements; and
§ 258.27, Surface Water Requirements.

2. MDE permit application checklists and internal guidance have been revised to incorporate the requirements of: § 258.23, Explosive Gas Control; § 258.26, Run-On/Run-Off Control Systems; § 258.28, Liquids Restrictions; and § 258.29, Record Keeping.

Subpart D—Landfill Design

1. MDE permit application checklists and internal guidance have been revised to incorporate the requirements of the § 258.40 design criteria. MDE now requires, as a minimum, at all new MSW landfills and expansions to existing landfill, the bottom liner system described in § 258.40 (b). This consists of a composite liner composed of an upper synthetic (plastic) component in direct contact with a lower component at least two feet thick made of compacted soil (clay). MDE also allows an alternate design that meets the performance standards established in § 258.40 (a) and (c). MDE requires that conformance be demonstrated through the use of mathematical modeling, such as the Hydrologic Evaluation of Landfill Performance Model (HELP) and Multimedia Exposure Assessment Model (MULTIMED). MDE has to date submitted several alternate liner systems to EPA under the 40 CFR 258.40(e) Liner Petition Process, which were subsequently approved, thereby demonstrating to EPA that this process is successfully in place. Submittal to EPA for such alternate liner approvals will no longer be required upon EPA final approval of this portion of the State's program.

Subpart E—Groundwater Monitoring and Corrective Action

1. The previously existing Maryland requirements for groundwater sampling and corrective action were in need of substantial upgrading to meet the 40 CFR 258 requirements. Using existing authorities, MDE is requiring all current landfill operators to amend their existing groundwater monitoring plans to meet the requirements of Subpart E in terms of monitoring frequency and coverage, including the pollution parameters listed in Appendices I and II of 40 CFR 258. For proposed facilities and changes to existing facilities, MDE has amended their application forms and checklists to require the preparation and implementation of a monitoring program which incorporates the complete EPA requirements (§§ 258.50 thru 258.55).

2. In the assessment of corrective measures, selection of remedies, and implementation of corrective actions, MDE has committed to use the EPA regulations (§§ 258.56; 258.57; 258.58) to guide their enforcement actions.

Subpart F—Closure and Post-Closure Care

1. Closure Criteria (§ 258.60)—Maryland will require flexible membrane caps, where appropriate, in accordance with the EPA regulations, and is implementing the closure periods required.

Not all existing States/Tribes permit programs ensure compliance with all provisions of the revised Federal Criteria. Were EPA to restrict a State/Tribe from submitting its application until it could ensure compliance with the entirety of 40 CFR Part 258, many States/Tribes would need to postpone obtaining approval of their permit programs for a significant period of time. This delay in determining the adequacy of the State/Tribal permit program, while the State/Tribe revises its statutes or regulations, could impose a substantial burden on owners and operators of landfills because the State/Tribe would be unable to exercise the flexibility available to States/Tribes with approved permit programs.

As State/Tribal regulations and statutes are amended to comply with the Federal MSWLF landfill regulations, unapproved portions of a partially approved MSWLF permit program may be approved by the EPA. The State/Tribe may submit an amended application to EPA for review, and an adequacy determination will be made using the same criteria used for the initial application. This adequacy determination will be published in the **Federal Register** which will summarize the Agency's decision and the portion(s) of the State/Tribal MSWLF permit program affected. It will also provide for a minimum 30 day public comment period. This future adequacy determination will become effective 60 days following publication if no adverse comments are received. If EPA receives adverse comments on its adequacy determination, another **Federal Register** notice will be published either affirming or reversing the initial decision while responding to the public comments.

To ensure compliance with all of the revised Federal Criteria and to obtain full EPA approval, MDE must revise the following aspects of its permit program:

(1) Post-Closure Care Requirements (§ 258.61)—MDE must amend its existing regulations extending the post-

closure care period of closed landfills from a minimum of five years to 30 years, with the flexibility to increase or decrease that period as necessary or demonstrated. The extension of the period required for financial assurance will require legislative action. The State also needs to specifically require leachate collection and treatment, and gas and groundwater monitoring, as post-closure care requirements. MDE has committed to make these changes.

(2) Subpart G—Financial Assurance Criteria (§§ 258.70–258.74)—Maryland's only existing financial assurance requirements are limited to the posting of a $5000 per acre closure bond, and even this requirement exempts, by statute, local governments, who currently operate most MSW landfills in Maryland. To comply with Federal requirements, MDE has committed to prepare a major revision to its regulations, adopting the financial assurance requirements in 40 CFR Part 258 for closure, post-closure care, and corrective action. These revisions will require an act by the Maryland legislature to revise the statute exempting local governments from financial assurance requirements. MDE has committed to submit the required legislation for consideration at the next General Assembly session.

MDE submitted a schedule indicating that it will be able to complete these revisions by September 1995. To allow Maryland to begin exercising some of the flexibility allowed in States with adequate permit programs, EPA is proposing to approve those portions of Maryland's program that can be implemented today.

EPA reviewed MDE's schedule and believes it is reasonable, considering the complexity of the rule changes, number of steps in the State rulemaking process, and the need for legislative action.

Comments are solicited on EPA's tentative determination until May 19, 1995. Copies of MDE's application are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

EPA Region 3 will hold a public hearing on its tentative decision on Wednesday, May 17, 1995 from 10 a.m. to 1 p.m. at 300 West Preston Street in Baltimore, Maryland. Comments can be submitted as transcribed from oral comments presented at the hearing, or in writing at the time of the hearing.

Public comment is specifically requested on the issue of MDE's authority to implement and enforce immediately the portions of 40 CFR 258 proposed for approval in this Notice, using authorities in existing statutes and regulations, to revise internal guidances and permit checklists. MDE has committed to, and EPA concurs, in MDE also making revisions to its existing regulations to explicitly include the 40 CFR 258 requirements.

EPA will consider all public comments on its tentative determination received during the public comment period and at the public hearing. Issues raised by those comments may be the basis for EPA's reconsideration of this tentative determination of adequacy for MDE's program. EPA will make a final decision on whether or not to approve MDE's program and will provide notice in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments. Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of Section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR Part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Compliance with Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirements of section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that according to EPA Headquarters this tentative approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This proposed notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of Sections 2002, 4005 and 4010(c) of the Solid Waste Disposal Act, as amended; 42 U.S.C. 6912, 6945 and 6949(a)(c).

Dated: March 9, 1995.

Peter H. Kostmayer,

Regional Administrator.

[FR Doc. 95–6928 Filed 3–20–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2063]

Petition for Reconsideration of Actions in Rulemaking Proceedings

March 16, 1995.

Petition for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed April 5, 1995. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of the Commission's Rules with Regard to the Establishment and Regulation of New Digital Audio Radio Services. (GEN Docket No. 90–357)
Number of Petition Filed: 1

Subject: Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems. (PR Docket No. 93–61)
Number of Petition Filed: 1

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–6827 Filed 3–20–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Allied Irish Banks, plc, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the

application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 4, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Allied Irish Banks, plc, Dublin, Ireland, to engage *de novo* through its subsidiary AIB Investment Managers Limited, Dublin, Ireland, in providing portfolio investment advice to any other person, serving as investment adviser to an investment company, including sponsoring, organizing, and managing a closed-end investment company, and furnishing general economic information and advice, general economic statistical forecasting services and industry studies, pursuant to §§ 225.25(b)(4)(ii), (iii), and (iv) of the Board's Regulation Y; providing foreign exchange advisory and transactional services, pursuant to § 225.25(b)(17) of the Board's Regulation Y; and providing investment advice as a commodity trading advisor for institutional and other financially sophisticated customers with respect to the purchase and sale of futures contracts and options on futures contracts for (1) bullion, foreign exchange, government securities, certificates of deposit, and other money market instruments that a bank may buy or sell in the cash market for its own account, (2) other financial instruments listed on the Board's list entitled ''Approved Exchanges and Contracts'' (as from time to time revised), and (3) other financial instruments which the Federal Reserve Board (or a Federal Reserve Bank under delegated authority) may from time to time approve for Applicant or for any other bank holding company, pursuant to § 225.25(b)(19) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. McCook National Company, McCook, Nebraska; to engage *de novo* in credit related life insurance activities, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 15, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-6868 Filed 3-20-95; 8:45 am]

BILLING CODE 6210-01-F

BB&T Bancshares Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 14, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. BB&T Bancshares Corp., Bloomingdale, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Bloomingdale Bank and Trust, Bloomingdale, Illinois.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. First Tennessee National Corporation, Memphis, Tennessee; to merge with Financial Investment Corporation, Springdale, Arkansas, and thereby indirectly acquire The First National Bank of Springdale, Springdale, Arkansas.

2. Union Planters Corporation, Memphis, Tennessee; to acquire 100 percent of the voting shares of First State Bancorporation, Inc., Tiptonville, Tennessee, and thereby indirectly acquire First Exchange Bank, Tiptonville, Tennessee.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Gibbon Exchange Company, Gibbon, Nebraska; to acquire 100 percent of the voting shares of Nebraska National Bank (in organization), Kearney, Nebraska.

Board of Governors of the Federal Reserve System, March 15, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-6869 Filed 3-20-95; 8:45 am]

BILLING CODE 6210-01-F

The Denis J. O'Brien Irrevocable Family Trust; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than April 4, 1995.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. The Denis J. O'Brien Irrevocable Family Trust, Swansea, Illinois; to retain 48.81 percent of the voting shares of Union Illinois Company, Swansea, Illinois, and thereby indirectly acquire

Union Bank of Illinois, Swansea, Illinois, and The State Bank of Jerseyville, Jerseyville, Illinois.

Board of Governors of the Federal Reserve System, March 15, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–6870 Filed 3–20–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Correction of Notice of Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Correction.

SUMMARY: A Notice beginning on page 9032 in the issue of February 16, 1995, entitled ''Findings of Scientific Misconduct'' is hereby reprinted in its entirety to correct the name of the university's organizational unit referenced in the original printing:

Aaron Apte, Stanford University: The Division of Research Investigations of the Office of Research Integrity (ORI) reviewed an investigation conducted by Stanford University into possible scientific misconduct on the part of Mr. Aaron Apte, a former technician in the Division of Cardiovascular Medicine. Mr. Apte and his research were supported by U.S. Public Health Service grants. ORI concluded that Mr. Apte fabricated data for research by cutting from a former coworker's notebook a scintillation counter printout, pasting it into his own notebook, and representing it as his own results from a different experiment on the binding of angiotensin to transfected cells. Mr. Apte has been debarred from eligibility for and involvement in grants as well as other assistance awards and contracts from the Federal Government for a period of three years. The fabricated research did not appear in any publications.

FOR FURTHER INFORMATION, CONTACT: Director, Division of Research Investigations, Office of Research Integrity, 301–443–5330.

Lyle W. Bivens,

Director, Office of Research Integrity.

[FR Doc. 95–6829 Filed 3–20–95; 8:45 am]

BILLING CODE 4160–17–P

Administration for Children and Families

Federal Allotments to State Developmental Disabilities Councils and Protection and Advocacy Formula Grant Programs for Fiscal Year 1996

AGENCY: Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services.

ACTION: Notification of Fiscal Year 1996 Federal Allotments to State Developmental Disabilities Councils and Protection and Advocacy Formula Grant Programs.

SUMMARY: This notice sets forth Fiscal Year 1996 individual allotments and percentages to States administering the State Developmental Disabilities Councils and Protection and Advocacy programs, pursuant to section 125 and section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (Act). The amounts published herein are based upon Fiscal Year 1995 funding levels, and are contingent upon Congressional appropriations for Fiscal Year 1996. If Congress enacts and the President approves an amount different from the Fiscal Year 1995 appropriation, the allotments will be adjusted accordingly.

EFFECTIVE DATE: October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Bettye J. Mobley, Chief, Family Support Branch, Office of Financial Management, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade SW., Washington, DC 20447, Telephone (202) 401–6955.

SUPPLEMENTARY INFORMATION: Section 125(a)(2) of the Act requires that adjustments in the amounts of State allotments may be made not more often than annually and that States are to be notified not less than six (6) months before the beginning of any fiscal year of any adjustments to take effect in that fiscal year. It should be noted that, as required, Palau's allotment has been adjusted to seventy-five percent of its Fiscal Year 1995 allotment.

The Administration on Developmental Disabilities has updated the data elements for issuance of Fiscal Year 1996 allotments for the Developmental Disabilities formula grant programs. The data elements used in the update are:

A. The number of beneficiaries in each State and Territory under the Childhood Disabilities Beneficiary Program, December 1993, are from Table 5.J10 of the ''Social Security Bulletin: Annual Statistical Supplement 1994'' issued by the Social Security Administration, U.S. Department of Health and Human Services. The numbers for the Northern Mariana Islands and the Trust Territories of the Pacific Islands, were obtained from the Social Security Administration;

B. State data on Average Per Capita Income, 1989–93, are from Table 2 of the ''Survey of Current Business,'' September 1994, issued by the Bureau of Economic Analysis, U.S. Department of Commerce; comparable data for the Territories also were obtained from that Bureau; and

C. State data on Total Population and Working Population (ages 18–64) as of July 1, 1993, are from ''Current Population Reports: Population Estimates and Projections, Series P–25, Number 1010, issued by the Bureau of the Census, U.S. Department of Commerce. Estimates for the Territories are no longer available, therefore, the Territories population data are from the 1990 Census Population Counts. The Territories' working populations were issued in the Bureau of Census report, ''General Characteristics Report: 1980,'' which includes the most recent data available from the Bureau.

FY 1996 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES

	State developmental disabilities councils	Percentage
Total	$70,438,000	100.000000
Alabama	1,316,693	1.869294
Alaska	420,475	.596943
Arizona	1,000,166	1.419924
Arkansas	768,612	1.091189
California	6,681,609	9.485802
Colorado	783,758	1.112692

FY 1996 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES—Continued

	State developmental disabilities councils	Percentage
Connecticut	664,043	.942734
Delaware	420,475	.596943
District of Columbia	420,475	.596943
Florida	3,101,405	4.403028
Georgia	1,719,577	2.441236
Hawaii	420,475	.596943
Idaho	420,475	.596943
Illinois	2,656,684	3.771663
Indiana	1,465,625	2.080731
Iowa	795,933	1.129977
Kansas	612,767	.869938
Kentucky	1,218,230	1.729507
Louisiana	1,414,382	2.007981
Maine	420,475	.596943
Maryland	974,662	1.383716
Massachusetts	1,285,660	1.825236
Michigan	2,357,909	3.347496
Minnesota	1,029,605	1.461718
Mississippi	938,115	1.331831
Missouri	1,326,269	1.882888
Montana	420,475	.596943
Nebraska	425,955	.604723
Nevada	420,475	.596943
New Hampshire	420,475	.596943
New Jersey	1,493,616	2.120469
New Mexico	477,025	.677227
New York	4,149,651	5.891211
North Carolina	2,635,469	3.741544
North Dakota	420,475	.596943
Ohio	2,870,116	4.074670
Oklahoma	917,217	1.302162
Oregon	743,074	1.054933
Pennsylvania	3,111,570	4.417459
Rhode Island	420,475	.596943
South Carolina	1,059,457	1.504099
South Dakota	420,475	.596943
Tennessee	1,443,820	2.049774
Texas	4,496,463	6.383576
Utah	546,890	.776413
Vermont	420,475	.596943
Virginia	1,419,709	2.015544
Washington	1,139,374	1.617556
West Virginia	760,118	1.079131
Wisconsin	1,284,773	1.823977
Wyoming	420,475	.596943
American Samoa	220,750	.313396
Guam	220,750	.313396
Northern Mariana Islands	220,750	.313396
Puerto Rico	2,416,786	3.431083
Palau	165,563	.235048
Virgin Islands	220,750	.313396

FY 1996 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES

	Protection and advocacy	Percentage
Total	[1] $25,911,318	100.000000
Alabama	413,724	1.596692
Alaska	254,508	.982227
Arizona	337,130	1.301092
Arkansas	254,508	.982227
California	2,304,146	8.892431
Colorado	272,686	1.052382
Connecticut	254,508	.982227
Delaware	254,508	.982227
District of Columbia	254,508	.982227
Florida	1,048,692	4.047235
Georgia	579,558	2.236698

FY 1996 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES—Continued

	Protection and advocacy	Percentage
Hawaii	254,508	.982227
Idaho	254,508	.982227
Illinois	858,307	3.312479
Indiana	491,113	1.895361
Iowa	254,508	.982227
Kansas	254,508	.982227
Kentucky	378,380	1.460289
Louisiana	443,374	1.711121
Maine	254,508	.982227
Maryland	329,489	1.271603
Massachusetts	403,574	1.557520
Michigan	769,485	2.969687
Minnesota	347,673	1.341780
Mississippi	301,040	1.161809
Missouri	438,395	1.691905
Montana	254,508	.982227
Nebraska	254,508	.982227
Nevada	254,508	.982227
New Hampshire	254,508	.982227
New Jersey	473,899	1.828927
New Mexico	254,508	.982227
New York	1,255,206	4.844238
North Carolina	1,332,640	5.143081
North Dakota	254,508	.982227
Ohio	938,556	3.622185
Oklahoma	304,757	1.176154
Oregon	261,963	1.010998
Pennsylvania	975,776	3.765829
Rhode Island	254,508	.982227
South Carolina	354,085	1.366526
South Dakota	254,508	.982227
Tennessee	465,273	1.795636
Texas	1,492,807	5.761216
Utah	254,508	.982227
Vermont	254,508	.982227
Virginia	479,643	1.851095
Washington	382,580	1.476498
West Virginia	254,508	.982227
Wisconsin	422,284	1.629728
Wyoming	254,508	.982227
American Samoa	136,161	.525489
Guam	136,161	.525489
Northern Mariana Islands	136,161	.525489
Puerto Rico	809,142	3.122736
Palau	102,121	.394117
Virgin Islands	136,161	.525489

[1] This amount is $806,682 less than the 1995 appropriation level. These funds are set aside for funding technical assistance and American Indian Consortiums. Public Law 103–230 authorizes spending up to two percent (2%) of the amount appropriated under Section 143 to fund technical assistance. American Indian Consortiums are eligible to receive the minimum amount under Section 142(c)(1)(A)(i). Unused funds will be reallotted in accordance with Section 142(c)(1) of the Act.

Dated: March 15, 1995.

Bob Williams,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 95–6916 Filed 3–20–95; 8:45 am]

BILLING CODE 4184–01–P

Centers for Disease Control and Prevention

[Announcement 123]

Grants for Education Programs in Occupational Safety and Health; Availability of Funds for Fiscal Year 1996

Introduction

The Centers for Disease Control and Prevention (CDC) announces that applications are being accepted for fiscal year (FY) 1996 training grants in occupational safety and health. This announcement reflects an initial response of CDC/NIOSH to an external review of the NIOSH training and education programs which concluded that there should be more flexibility in the definition of academic programs and of what constitutes an Educational Resource Center. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2000,'' a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of ''Healthy

People 2000,'' see the section **Where to Obtain Additional Information.**)

Authority

This program is authorized under section 21(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670(a)). Regulations applicable to this program are in 42 CFR Part 86, ''Grants for Education Programs in Occupational Safety and Health.''

Smoke-Free Workplace

PHS strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Any public or private educational or training agency or institution that has demonstrated competency in the occupational safety and health field and is located in a State, the District of Columbia, or U.S. Territory is eligible to apply for a training grant.

Availability of Funds and Recipient Activities

CDC expects approximately $11,500,000 to be available in FY 1996.

A. Approximately $10,400,000 of the total funds available will be utilized as follows:

1. To award approximately fourteen non-competing continuation Educational Resource Center (ERC) training grants totaling approximately $8,200,000 and ranging from approximately $400,000 to $800,000 with the average award being approximately $600,000. An Occupational Safety and Health Educational Resource Center shall be an identifiable organizational unit within the sponsoring organization and shall consist of the following characteristics:

a. Cooperative arrangements with a medical school or teaching hospital (with an established program in preventive or occupational medicine); with a school of nursing or its equivalent; with a school of public health or its equivalent; or with a school of engineering or its equivalent. Other schools or departments with relevant disciplines and resources shall be expected to be represented and contribute as appropriate to the conduct of the total program, e.g., epidemiology, toxicology, biostatistics, environmental health, law, business administration, education. Specific mechanisms to implement the cooperative arrangements between departments, schools/colleges, universities, etc., shall be demonstrated in order to assure that the intended multidisciplinary training and education will be engendered.

b. A Center Director who possesses a demonstrated capacity for sustained productivity and leadership in occupational health and safety education and training. The Director shall oversee the general operation of the Center Program and shall, to the extent possible, directly participate in training activities. Provisions shall be made to employ a Deputy Director who shall be responsible for managing the daily administrative duties of the Center and to increase the Center Director's availability to ERC staff and to the public. At least one full-time equivalent effort shall be demonstrated between the two positions.

c. Program Directors who are full-time faculty and professional staff representing various disciplines and qualifications relevant to occupational safety and health who are capable of planning, establishing, and carrying out or administering training projects undertaken by the Center. Each academic program, as well as the continuing education and outreach program, shall have a Program Director.

d. Faculty and staff with demonstrated training and research expertise, appropriate facilities and ongoing training and research activities in occupational safety and health areas.

e. A program for conducting education and training in four core disciplines: Occupational physicians, occupational health nurses, industrial hygienists, and occupational safety personnel. There shall be a minimum of five full-time students in each of the core programs, with a goal of a minimum of 30 full-time students (total in all of programs together). Although it is desirable for a Center to have the full range of core programs, a Center with a minimum of three components of which two are in the core disciplines is eligible for support providing it is demonstrated that students will be exposed to the principles and issues of all four core disciplines. In order to maximize the unique strengths and capabilities of institutions, consideration will be given to the development of new and innovative component programs that are relevant to the occupational safety and health field, e.g., ergonomics, industrial toxicology, and occupational epidemiology. Centers must also document that the program covers an occupational safety and health discipline in critical need or meets a specific regional workforce need. Each core program curriculum shall include courses from non-core categories as well as appropriate clinical rotations and field experiences with public health and safety agencies and with labor-management health and safety groups. Where possible, field experience shall involve students representing other disciplines in a manner similar to that used in team surveys and other team approaches.

f. A specific plan describing how trainees will be exposed to the principles of all other occupational safety and health core and allied disciplines. Consortium Centers generally have geographic, policy and other barriers to achieving this Center characteristic and, therefore, must give special, if not innovative, attention to thoroughly describing the approach for fulfilling the multidisciplinary interaction between students.

g. Demonstrated impact of the ERC on the curriculum of undergraduate, graduate and continuing education of primary core disciplines as well as relevant medical specialties (e.g. neurology) and the curriculum of other schools such as engineering, business and law.

h. An outreach program to interact with and help other institutions or agencies located within the region. Programs shall be designed to address regional needs and implement innovative strategies for meeting those needs. Partnerships and collaborative relationships shall be encouraged between ERCs and Training Project Grants. Examples of outreach activities might include activities such as: Interaction with other colleges and schools within the ERC and with other universities or institutions in the region to integrate occupational safety and health principles and concepts within existing curricula (e.g., Colleges of Business Administration, Engineering, Architecture, Law, and Arts and Sciences); exchange of occupational safety and health faculty among regional educational institutions; providing curriculum materials and consultation for curriculum/course development in other institutions; use of a visiting faculty program to involve labor and management leaders; cooperative and collaborative arrangements with professional societies, scientific associations, and boards of accreditation, certification, or licensure; and presentation of awareness seminars to undergraduate and secondary educational institutions (e.g., high school science fairs and career days) as well as to labor, management and community associations.

i. A specific plan for preparing, distributing and conducting courses, seminars and workshops to provide short-term and continuing education training courses for physicians, nurses, industrial hygienists, safety engineers and other occupational safety and health professionals, paraprofessionals and technicians, including personnel from labor-management health and safety committees, in the geographical region in which the Center is located. The goal shall be that the training be made available to a minimum of 400 trainees per year representing all of the above categories of personnel, on an approximate proportional basis with emphasis given to providing occupational safety and health training to physicians in family practice, as well as industrial practice, industrial nurses, and safety engineers. Where appropriate, it shall be professionally acceptable in that Continuing Education Units (as approved by appropriate professional associations) may be awarded. These courses should be structured so that higher educational institutions, public health and safety agencies, professional societies or other appropriate agencies can utilize them to provide training at the local level to occupational health and safety personnel working in the workplace. Further, the Center shall conduct periodic training needs assessments, shall develop a specific plan to meet these needs, and shall have demonstrated capability for implementing such training directly and through other institutions or agencies in the region. The Center should establish and maintain cooperative efforts with labor unions, government agencies, and industry and trade associations, where appropriate, thus serving as a regional resource for addressing the problems of occupational safety and health that are faced by State and local governments, labor and management.

j. A Board of Advisors or Consultants representing the user and affected population, including representatives of labor, industry, government agencies, academic institutions and professional associations, shall be established by the Center. The Board shall meet regularly to advise a Center Executive Committee and to provide periodic evaluation of Center activities. The Executive Committee shall be composed of the Center Director and Deputy Director, academic Program Directors, the Directors for Continuing Education and Outreach and others whom the Center Director may appoint to assist in governing the internal affairs of the Center.

k. In research institutions, as documented by on-going funded research and faculty publications, a defined research training plan for training doctoral-level researchers in the occupational safety and health field. The plan will include how the Center intends to strengthen existing research training efforts, and how it will expand these research activities to have an impact on other primarily clinically-oriented disciplines, such as nursing and medicine. Each ERC is required to identify or develop a minimum of one, preferably more, areas of research focus related to work environment problems. Consideration shall be given to the CDC/NIOSH priority research areas of surveillance, work organization (including underserved populations, occupational stress and ergonomics), control technology or intervention research, and health services research. In addition to the research and research training components, the plan will also include such items as specific strategies for obtaining student and faculty funding, plans for renovating or acquiring facilities and equipment, if appropriate, and a plan for developing research-oriented faculty.

l. Evidence in obtaining support from other funds, including other Federal grants, support from States and other public agencies, and support from the private sector including grants from foundations and corporate endowments, chairs, and gifts.

2. Approximately $250,000 of the available funds as specified in A.1. will be awarded to ERCs to support the development of specialized educational programs in agricultural safety and health within the existing core disciplines of industrial hygiene, occupational medicine, occupational health nursing, and occupational safety. Program support is available for faculty and staff salaries, trainee costs, and other costs to educate professionals in agricultural safety and health.

3. To award approximately twenty-five non-competing continuation and fourteen competing continuation long-term training project grants (TPG) totaling $2,200,000 and ranging from approximately $10,000 to $500,000, with the average award being $56,000, to support academic programs in the core disciplines (i.e. industrial hygiene, occupational health nursing, occupational/industrial medicine, and occupational safety and ergonomics) and relevant components (e.g. toxicology, ergonomics). The awards are normally for training programs of 1 academic year. They are intended to augment the scope, enrollment, and quality of training programs rather than to replace funds already available for current operations. They must also document that the program covers an occupational safety and health discipline in critical need or meets a specific regional workforce need. The types of training currently eligible for support are:

a. Graduate training for practice, teaching, and research careers in occupational safety and health. Priority will be given to programs producing graduates in areas (i.e., disciplines such as occupational health nursing) of greatest occupational safety and health need.

b. Undergraduate and other pre-baccalaureate training providing trainees with capabilities for positions in occupational safety and health professions.

c. Special technical or other programs for training of occupational safety and health technicians or specialists.

d. Special programs for development of occupational safety and health training curricula and educational materials, including mechanisms for effectiveness testing and implementation.

Awards will be made for a 1- to 5-year project period with an annual budget period. Funding estimates may vary and are subject to change. Non-competing continuation awards within the approved project periods will be made on the basis of satisfactory progress and the availability of funds.

B. Approximately $1,100,000 of the total funds available will be awarded to ERCs to support the development and presentation of continuing education and short courses and academic curricula for trainees and professionals engaged in the management of hazardous substances. These funds are provided to NIOSH/CDC through an Interagency Agreement with the National Institute of Environmental Health Sciences as authorized by section 209(b) of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (42 U.S.C. 9660(a)(4)). The hazardous substance training (HST) funds are being used to supplement previous hazardous substance continuing education grant support provided to the ERCs in FY 1984 and 1985 under the authority of Title III of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 as amended by SARA for the ERC continuing education program. The hazardous substance academic training (HSAT) funds are being used to supplement continuing industrial hygiene core program support to develop and offer academic curricula in the hazardous substance field

primarily for industrial hygiene trainees. Program support is available for faculty and staff salaries, trainee costs, and other costs to provide training and education for occupational safety and health and other professional personnel engaged in the evaluation, management, and handling of hazardous substances. The policies regarding project periods also apply to these activities.

Purpose

The objective of this grant program is to award funds to eligible institutions or agencies to assist in providing an adequate supply of qualified professional and para-professional occupational safety and health personnel to carry out the purposes of the Occupational Safety and Health Act.

Review and Evaluation Criteria

In reviewing ERC grant applications, consideration will be given to:

1. Needs assessment directed to the overall contribution of the training program toward meeting the job market, especially within the applicant's region, for qualified personnel to carry out the purposes of the Occupational Safety and Health Act of 1970. The needs assessment should consider the regional requirements for outreach, continuing education, information dissemination, and special industrial or community training needs that may be peculiar to the region.

2. Plans to satisfy the regional needs for training in the areas outlined by the application, including projected enrollment, recruitment and current workforce populations. The need for supporting students in allied disciplines must be specifically justified in terms of user community requirements.

3. Extent to which arrangements for day-to-day management, allocation of funds and cooperative arrangements are designed to effectively achieve *Characteristics of an Educational Resource Center.* (See A.1.a.–l.)

4. Extent to which curriculum content and design includes formalized training objectives, minimal course content to achieve certificate or degree, course descriptions, course sequence, additional related courses open to occupational safety and health students, time devoted to lecture, laboratory and field experience, and the nature of specific field and clinical experiences including their relationships with didactic programs in the educational process.

5. Academic training including the number of full-time and part-time students and graduates for each core program, the placement of graduates, employment history, and their current location by type of institution (academic, industry, labor, etc.). Previous continuing education training in each discipline and outreach activity and assistance to groups within the ERC region.

6. Methods in use or proposed methods for evaluating the effectiveness of training and outreach including the use of placement services and feedback mechanisms from graduates as well as employers, innovative strategies for meeting regional needs, critiques from continuing education courses, and reports from consultations and cooperative activities with other universities, professional associations, and other outside agencies.

7. Competence, experience and training of the Center Director, the Deputy Center Director, the Program Directors and other professional staff in relation to the type and scope of training and education involved.

8. Institutional commitment to Center goals.

9. Academic and physical environment in which the training will be conducted, including access to appropriate occupational settings.

10. Appropriateness of the budget required to support each academic component of the ERC program, including a separate budget for the academic staff's time and effort in continuing education and outreach.

11. Evidence of a plan describing the research and research training the Center proposes. This shall include goals, elements of the program, research faculty and amount of effort, support faculty, facilities and equipment available and needed, and methods for implementing and evaluating the program.

12. Evidence of success in attaining outside support to supplement the ERC grant funds including other Federal grants, support from States and other public agencies, and support from the private sector including grants from foundations and corporate endowments, chairs, and gifts.

13. Evidence of a strategy to evaluate the impact that the ERC and its programs have had on the DHHS Region. Examples could include a continuing education needs assessment, a workforce needs survey, consultation and research programs provided to address regional occupational safety and health problems, the impact on primary care practice and training, a program graduate data base to track the contributions of graduates to the occupational safety and health field, and the cost effectiveness of the program.

In reviewing long-term TPG applications, consideration will be given to:

1. Need for training in the program area outlined by the application. This should include documentation of ability and a plan for student recruitment, projected enrollment, job opportunities, regional/national need both in quality and quantity, and similar programs, if any within the geographic area.

2. Potential contribution of the project toward meeting the needs for graduate or specialized training in occupational safety and health.

3. Curriculum content and design which should include formalized program objectives, minimal course content to achieve certificate or degree, course sequence, related courses open to students, time devoted to lecture, laboratory and field experience, nature and the interrelationship of these educational approaches.

4. Previous records of training in this or related areas, including placement of graduates.

5. Methods proposed to evaluate effectiveness of the training.

6. Degree of institutional commitment: Is grant support necessary for program initiation or continuation? Will support gradually be assumed? Is there related instruction that will go on with or without the grant?

7. Adequacy of facilities (classrooms, laboratories, library services, books, and journal holdings relevant to the program, and access to appropriate occupational settings).

8. Competence, experience, training, time commitment to the program and availability of faculty to advise students, faculty/student ratio, and teaching loads of the program director and teaching faculty in relation to the type and scope of training involved. The program director must be a full-time faculty member.

9. Admission Requirements: Student selection standards and procedures, student performance standards and student counseling services.

10. Advisory Committee (if established): Membership, industries and labor groups represented; how often they meet; who they advise, role in designing curriculum and establishing program need.

11. Evidence of a strategy to evaluate the impact that the program has had on the region. Examples could include a workforce needs survey, consultation and research programs provided to address regional occupational safety and health problems, a program graduate data base to track the contributions of graduates to the occupational safety and

health field, and the cost effectiveness of the program.

Funding Allocation Criteria

For Educational Resource Center grants, the following criteria will be considered in determining funding allocations.

1. Academic Core Programs

a. Budget to support programs primarily for personnel and other personnel-related costs. Advanced (doctoral and post-doctoral) and specialty (master's) programs will be considered.

b. Budget to support programs based on program quality and need. Factors considered include faculty commitment/breadth, faculty reputation/strength, national/regional workforce needs, unique program contribution, interdisciplinary interaction, and technical merit.

c. Budget to support students based on the program level and the number of students supported.

d. Budget to support research training programs to establish a research base within core disciplines and for the training of researchers in occupational safety and health.

2. Center Administration

Budget to support Center administration to assure coordination and promotion of academic programs.

3. Continuing Education/Outreach Program

Budget to support outreach and continuing education activities to prepare, distribute, and conduct short courses, seminars, and workshops.

4. Hazardous Substance Training Programs

Budget to support the development and presentation of continuing education courses for professionals engaged in the management of hazardous substances.

5. Hazardous Substance Academic Training Programs

Budget to support the development and presentation of specialized academic programs in hazardous substance management.

6. Agricultural Safety and Health Academic Programs

Budget to support the development and presentation of specialized academic programs and continuing education courses in agricultural safety and health.

For Long-Term Training Project grants, the following factors will be considered in determining funding allocations.

Academic Core Programs

a. Budget to support programs primarily for personnel and other personnel-related costs. Advanced (doctoral and post-doctoral), specialty (master's), and baccalaureate/associate programs will be considered.

b. Budget to support programs based on program quality and need. Factors considered include faculty commitment/breadth, faculty reputation/strength, national/regional workforce needs, unique program contribution, interdisciplinary interaction, and technical merit.

c. Budget to support students based on the program level and the number of students supported.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.263.

Application Submission and Deadline

Applications should be clearly identified as an application for an Occupational Safety and Health Long-Term Training Project Grant or ERC Training Grant. The submission schedule is as follows:

New, Competing Continuation and Supplemental Receipt Date: July 1, 1995

An original and two copies of new, competing continuation and supplemental applications (Form CDC 2.145A ERC or TPG, OMB Number 0920–0261) should be submitted to: Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E13, Atlanta, GA 30305.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Non-Competing Continuation Receipt Date: November 15, 1995

An original and two copies of non-competing continuation applications (Form CDC 2.145B ERC or TPG, OMB Number 0920–0261) should be submitted to: Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E13, Atlanta, GA 30305.

Where To Obtain Additional Information

To receive additional information call (404) 332–4561. You will be asked to leave your name, address and phone number and will need to refer to Announcement Number 123. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Adrienne S. Brown, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E13, Atlanta, GA 30305, telephone (404) 842–6630. Programmatic technical assistance may be obtained from John T. Talty, Chief, Educational Resource Development Branch, Division of Training and Manpower Development, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 4676 Columbia Parkway, Cincinnati, OH 45226, telephone (513) 533–8241.

Please refer to Announcement Number 123 when requesting information and submitting an application.

Potential applicants may obtain a copy of ''Healthy People 2000'' (Full Report, Stock No. 017–001–00474–0) or ''Healthy People 2000'' (Summary Report, Stock No. 017–001–00473–1)

through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Dated: March 15, 1995.

Linda Rosenstock,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–6861 Filed 3–20–95; 8:45 am]

BILLING CODE 4163–19–P

Food and Drug Administration

[Docket No. 95G–0039]

Degussa Corp.; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Degussa Corp. has filed a petition (GRAS 2419) proposing that hydrophobic silica, prepared by the hydrophobization of silicon dioxide with dichlorodimethyl-silane, be affirmed as generally recognized as safe (GRAS) as an anticaking/free-flow agent in vitamin preparations for animal feed.

DATES: Written comments by June 5, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: J. D. McCurdy, Center for Veterinary Medicine (HFV–226), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1731.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 201(s), 409(b)(5) (21 U.S.C. 321(s) and 348(b)(5)) and the regulations for affirmation of GRAS status in § 570.35 (21 CFR 570.35), notice is given that Degussa Corp., c/o Counsel for Petitioner, Jerome H. Heckman, Keller, and Heckman, 1001 G St. NW., Suite 500 West, Washington, DC 20001, has filed a petition (GRASP 2419) proposing that hydrophobic silica, prepared by the hydrophobization of silicon dioxide with dichlorodimethyl-silane, be affirmed as GRAS as an anticaking/free-flow agent in vitamin preparations for animal feed.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 570.30 (21 CFR 570.30) and 570.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before June 5, 1995, review the petition and file comments with the Dockets Management Branch (address above). Two copies of any comments should be filed and should be identified with the docket number found in brackets in the heading of this document. Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use. In addition, consistent with the regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency encourages public participation by review of and comment on the environmental assessment submitted with the petition that is the subject of this notice. A copy of the petition (including the environmental assessment) and
received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 8, 1995.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 95–6918 Filed 3–20–95; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committee Meeting; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Arthritis Advisory Committee. This meeting was announced in the **Federal Register** of February 17, 1995 (60 FR 9338). This amendment is being made to announce the cancellation of the open committee discussion portion of the meeting and adjustment of the starting time. There are no other changes. This amendment will be announced at the beginning of the open portion of the meeting.

FOR FURTHER INFORMATION CONTACT: Isaac F. Roubein, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Arthritis Advisory Committee, code 12532.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 17, 1995 (60 FR 9338), FDA announced that the Arthritis Advisory Committee would hold a meeting on March 27, 1995.

On page 9338, column 2, the ''*Date, time, and place*'' portion is amended to read as follows:

Date, time, and place. March 27, 1995, 9 a.m., Holiday Inn—Silver Spring, Silver Room, 8777 Georgia Ave., Silver Spring, MD.

On page 9338, column 2, the ''*Type of meeting and contact person*'' portion is amended to read as follows:

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; closed committee deliberations, 10 a.m. to 4 p.m.; Isaac F. Roubein, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Arthritis Advisory Committee, code 12532.

Dated: March 16, 1995.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 95–7068 Filed 3–17–95; 3:46 pm]

BILLING CODE 4160–01–F

Advisory Committee Meetings; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Nonprescription Drugs Advisory Committee. This meeting was announced in the **Federal Register** of February 17, 1995 (60 FR 9335 at 9336). The amendment is being made to announce the cancellation of the joint session with the Dermatologic and Ophthalmic Drugs Advisory Committee; the cancellation of the session with

Pulmonary-Allergy Drugs Advisory Committee representation; the addition of joint sessions with the Gastrointestinal Drugs Advisory Committee and the Arthritis Advisory Committee; the addition of closed sessions to the agenda and consequent adjustment in times; and the correction of the new drug application (NDA) number announced under open committee discussion scheduled for March 28, 1995. There are no other changes. This amendment will be announced at the beginning of the open portion of the meeting.

FOR FURTHER INFORMATION CONTACT: Lee L. Zwanziger or Liz Ortuzar, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Nonprescription Drugs Advisory Committee, code 12541.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 17, 1995, FDA announced that the Nonprescription Drugs Advisory Committee would hold a joint meeting with the Dermatologic and Ophthalmic Drugs Advisory Committee, followed by a session with the Pulmonary-Allergy Drugs Advisory Committee representation, and a joint meeting with the Arthritis Advisory Committee on March 27 and 28, 1995.

On page 9336, in column 2, the ''*Date, time, and place*'' portion of this meeting is amended as follows:

Date, time, and place. March 27, 1995, 1 p.m., and March 28, 1995, 8 a. m., Parklawn Bldg., conference rooms D and E, 5600 Fishers Lane, Rockville, MD.

On page 9336, in column 2, the ''*Type of meeting and contact person*'' portion of this meeting is amended as follows:

Type of meeting and contact person. Open committee discussion, March 27, 1995, 1 p.m. to 3 p.m.; open public hearing, 3 p.m. to 3:30 p.m., unless public participation does not last that long; open committee discussion, 3:30 p.m. to 5 p.m.; closed committee deliberations for the Nonprescription Drugs Advisory Committee only, 5 p.m. to 6 p.m.; open committee discussion, March 28, 1995, 8 a.m. to 11:30 a.m.; open public hearing, 11:30 a.m. to 12 m., unless public participation does not last that long; joint closed committee deliberations, 12 m. to 12:30 p.m.; open committee discussion, 12:30 p.m. to 4 p.m.; Lee L. Zwanziger or Liz Ortuzar, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Nonprescription Drugs Advisory Committee, code 12541.

On page 9336, in column 2, the ''*General function of the committees*'' portion is amended as follows:

General function of the committees. The Nonprescription Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products for use in the treatment of a broad spectrum of human symptoms and diseases. The Gastrointestinal Drugs Advisory Committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in gastrointestinal diseases. The Arthritis Advisory Committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in arthritic conditions.

On page 9336, in column 3, the ''*Open committee discussion*'' portion is amended as follows:

Open committee discussion. On March 27, 1995, the Nonprescription Drugs Advisory Committee and the Gastrointestinal Drugs Advisory Committee will discuss SmithKline Beecham's NDA 20–238 for over-the-counter (OTC) Tagamet® (cimetidine) tablets for the treatment of heartburn. On the morning of March 28, 1995, the Nonprescription Drugs Advisory Committee and the Arthritis Advisory Committee will discuss data relevant to NDA 20–516 for ibuprofen suspension (Motrin®, McNeil Consumer Products) for the treatment of fever and of pain in children between 2 and 12 years of age. On the afternoon of March 28, 1995, the Nonprescription Drugs Advisory Committee and the Arthritis Advisory Committee will discuss recommendations regarding appropriate OTC indication(s) for muscle relaxants, OTC dose(s) and duration of use, safety profiles, abuse potential, and pharmacokinetic information.

After the ''*Open committee discussion*'' portion, a ''*Closed committee deliberations*'' portion is added as follows:

Closed committee deliberations. On March 27 and 28, 1995, the committees will discuss trade secret and/or confidential commercial information relevant to pending investigational new drug applications. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600

Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: March 16, 1995.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 95–7069 Filed 3–17–95; 3:46 pm]

BILLING CODE 4160–01–F

Health Care Financing Administration

Office of Research and Demonstrations; Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (**Federal Register**, Vol. 59, No. 60, pp. 14642–43, dated Tuesday, March 29, 1994) is amended to reflect various changes resulting from the streamlining and reorganization of the Office of Research and Demonstrations (ORD).

These changes abolish the current ORD substructure which consists of three subordinate offices and one staff, and establish a new substructure which consists of four subordinate offices and two subordinate staffs. These changes will realign all current ORD functions into the following activity areas: information dissemination; financial, administrative, and procurement support; state health reform demonstrations; payment, delivery, and financing research and demonstrations; beneficiary related research and demonstrations; and ORD program support activities.

The specific changes to Part F are:

- Section F.10.C.3.a, through Section F.10.C.3.c.(2) is deleted in its entirety and replaced by the following revised functional statements. The new sections F.10.C.3.a through F.10.C.3.f.(2) read as follows:

A. Dissemination Staff (FKB–2)

- Produces and distributes ORD publications, such as the Health Care Financing Review, Status Report, Publications Catalog, and Reports to Congress.
- Coordinates ORD's input for the annual HCFA Report to Congress.
- Markets materials, including electronically produced data and publications to consumers, customers and other individuals or organizations.
- Develops new dissemination strategies that encourage the adoption and diffusion of innovations in health care financing and delivery.
- Manages internal and external inquiries.
- Provides conference support.
- Provides technical and editorial support services.
- Coordinates with the Government Printing Office and the National Technical Information Service.
- Maintains resource material for internal use.
- Develops and disseminates internal communications and operational procedures.
- Reviews, coordinates and serves as liaison for administrative correspondence.

B. Financial, Administrative and Procurement Staff (FKB–3)

- Plans, directs and implements a comprehensive office-wide human resources and employee development program.
- Coordinates ORD's section of the HCFA strategic plan.
- Coordinates the Federal Managers Financial Integrity Act.
- Plans, directs and implements office-wide facilities and property management programs.
- Plans, directs and implements comprehensive office-wide budget and financial management programs.
- Coordinates grants, contracts, cooperative agreements and waiver activities.
- Plans and develops ORD's Acquisition Planning Document.
- Develops and implements the ORD Waiver Compendium.
- Manages Freedom of Information and Privacy Act issues.

C. Office of State Health Reform Demonstrations (FKB4)

- Conducts research, demonstrations and evaluations to support the development and implementation of State health and welfare reform demonstrations.
- In partnership with other HCFA bureaus and DHHS offices, directs the

Department's response to all aspects of the State's proposal and any proposed changes to ongoing demonstration activities.

- Monitors ongoing operations of the State's demonstration in partnership with other HCFA bureaus and regional offices.
- Funds technical assistance to States in the implementation and evaluation of these programs.

D. Office of Payment and Delivery Research and Demonstrations (FKB5)

- Directs intramural and extramural research, demonstrations and evaluations of managed care and other delivery systems including studies supporting the development of associated payment systems and the development of infrastructure in underserved areas.
- Directs intramural and extramural research, demonstrations and evaluations of broad reforms of the Medicare and Medicaid programs, studies to evaluate the impact of proposals for reform of the health care system and studies of health care financing systems.
- Directs intramural and extramural research, demonstrations and evaluations to support the development, implementation and refinement of payment policies including the extension of existing payment systems to excluded providers and other payers.
- Directs and performs analyses to assist in delivery and systems reform and payment policy development.

D.(1) Division of Delivery Systems and Financing (FKB51)

- Conducts intramural and extramural research, demonstrations and evaluations of managed care and other delivery systems including the development of infrastructure in underserved areas (rural/inner-city areas).
- Conducts intramural and extramural research, demonstrations and evaluations to support the development and implementation of payment systems associated with delivery and systems reform.
- Conducts intramural and extramural research, demonstrations and evaluations to develop and implement patient and other classification systems, including risk adjustment methodologies, for new delivery and payment systems.
- Conducts intramural and extramural research, demonstrations and evaluations of broad reforms of the Medicare and Medicaid programs.
- Conducts intramural and extramural research studies to evaluate the impact of proposals for reform of the health care system.
- Conducts intramural and extramural research, demonstrations and evaluations of health care financing issues.
- Performs analyses to assist in delivery and systems reform policy development.

D.(2) Division of Payment Systems (FKB52)

- Conducts intramural and extramural research, demonstrations and evaluations to support the development, implementation and refinement of payment policy for hospitals, physicians, drugs, outpatient facilities, skilled nursing facilities, home health agencies and other providers.
- Conducts intramural and extramural research, demonstrations and evaluations to support the extension of payment systems to excluded providers and to other payers.
- Conducts intramural and extramural research, demonstrations and evaluations to develop and implement patient and other classifications for payment systems.
- Conducts intramural and extramural research studies of the impact of payment systems on providers and other payers.
- Conducts intramural and extramural research studies on developments/changes in the health care sector and evaluate the implications for payment policy.
- Assists in the development and implementation of payment policies to expand access and develop infrastructure in underserved areas (rural/inner-city areas).
- Performs analyses to assist in payment policy development.

E. Office of Beneficiary and Program Research and Demonstrations (FKB6)

- Directs intramural and extramural research, demonstrations and evaluations on the Medicare and Medicaid programs and beneficiary populations that include, but are not limited to, maternal and child health, End Stage Renal Disease (ESRD), persons with Acquired Immune Deficiency Syndrome (AIDS), prescribed drugs, persons with cancer, persons with mental and physical chronic disease and disabilities, where the issues to be studied include, but are not limited to, health status and outcomes, information, eligibility, service use, access to care, coverage, expenditures and quality of care.
- Directs intramural and extramural studies on the impact of existing and new HCFA programs and payment systems on the beneficiaries.
- Directs intramural and extramural research, demonstrations and evaluations on ways to improve the decision-making process by which consumers select health insurance coverage, providers and treatments, and beneficiary satisfaction.
- Directs intramural and extramural research, demonstrations and evaluations related to new measures of quality of care.
- Directs intramural and extramural research, demonstrations and evaluations to support coverage policy for new and existing technology and procedures.
- Directs and performs the policy analyses of findings on issues that affect beneficiary populations and programs.

E.(1) Division of Health, Information and Outcomes (FKB61)

- Conducts intramural and extramural research, demonstrations and evaluations related to issues that affect the health status, outcomes, eligibility, access to, and use and costs of services for Medicare and Medicaid beneficiaries and special populations, such as, maternal and child health, persons with AIDS and cancer patients.
- Conducts intramural and extramural research, demonstrations and evaluations related to issues that affect the ESRD program.
- Conducts intramural and extramural research, demonstrations and evaluations related to beneficiary satisfaction.
- Conducts intramural and extramural studies on the impact of existing and new HCFA programs and payment systems on the beneficiaries.
- Conducts intramural and extramural research, demonstrations and evaluations on ways to improve the decision-making process by which consumers select health insurance coverage, providers and treatments.
- Carries out and analyzes the results of the Medicare Health Status Registry.
- Conducts intramural and extramural research, demonstrations and evaluations on health information for providers.
- Conducts intramural and extramural research, demonstrations and evaluations related to new measures of quality of care (not related to the aged and disabled).
- Conducts intramural and extramural research, demonstrations and evaluations to support coverage policy for new and existing technologies, procedures and pharmaceuticals.

• Analyzes the policy implications of findings on health, information, outcomes, access, coverage and quality.

E.(2) Division of Aging and Disability (FKB62)

• Conducts intramural and extramural research, demonstrations and evaluations on issues that affect program eligibility for populations that include persons with mental and physical chronic disease and disabilities.
• Conducts intramural and extramural research, demonstrations and evaluations on issues that affect coverage for populations that include persons with mental and physical chronic disease and disabilities.
• Conducts intramural and extramural research, demonstrations and evaluations on issues that affect cost of care for populations that include persons with mental and physical chronic disease and disabilities.
• Conducts intramural and extramural research, demonstrations and evaluations on issues that affect access to care for populations that include persons with mental and physical chronic disease and disabilities.
• Conducts intramural and extramural research, demonstrations and evaluations on issues that affect quality of health and long-term care services for populations that include persons with mental and physical chronic disease and disabilities.
• Conducts intramural and extramural research, demonstrations and evaluations related to new measures of quality of care for populations that include persons with mental and physical chronic disease and disabilities.
• Analyzes trends in long-term care programs and market characteristics.
• Analyzes the policy implications of findings on issues that affect aging and disability.

F. Office of Research and Demonstrations Support (FKB7)

• Directs the Fiscal Intermediary and Carrier activities for demonstrations.
• Directs the development, implementation and ongoing operations of demonstrations.
• Directs the design and development of payment methodologies for demonstrations, special cost reports and operational manuals.
• Directs the design, development and implementation of mainframe and personal computer (PC) based claims processing systems and collation of evaluation data.
• Directs the development of data programs to monitor and evaluate trends in Medicare/Medicaid and the health care system.
• Oversees programming and dataset technical assistance.
• Directs the control and support for PC's, local area networks (LAN's), computer communications and mainframe computer hardware/software packages.
• Participates with the Bureau of Data Management and Strategy (BDMS) in providing support and access to HCFA's data bases as required by research and demonstration activities.

F.(1) Division of Demonstrations Support (FKB71)

• Serves as Fiscal Intermediary and Carrier for demonstrations.
• Participates in the development, implementation and ongoing operations of demonstrations.
• Designs and develops payment methodologies when needed for demonstrations and studies, such as special cost reports, special operational manuals and participates in facilitating demonstrations.
• Designs, develops and implements mainframe and PC claims processing systems and collates data for evaluations.
• Conducts on-site audits of submitted costs reports and validates services rendered.

F.(2) Division of Data Systems Resources (FKB72)

• Develops, manages and maintains a variety of data programs to monitor and evaluate trends in Medicare/Medicaid and the health care system.
• Provides and participates in a variety of data support activities related to quality control and data verification.
• Provides programming and dataset technical assistance.
• Provides control and support for PCs, LAN, computer communications and mainframe computer hardware/ software packages.
• Participates with BDMS in providing necessary support and access to HCFA's data bases as required by research and demonstration activities.
• Coordinates ORD's participation in computer-based systems.
• Designs and develops a variety of analytic data bases.

Dated: March 8, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–6885 Filed 3–20–95; 8:45 am]

BILLING CODE 4120–01–P

National Institutes of Health

National Cancer Institute; Opportunity for a Cooperative Research Agreement (CRADA) for the Scientific and Commercial Development of Diagnostic and/or Therapeutic Agents for Hyperpigmentary Lesions

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute (NCI), seeks a pharmaceutical or cosmetic company that can effectively pursue the scientific and commercial generation and development of agents inhibiting pigmentation. The project is of scientific importance since it will characterize mechanisms whereby melanocyte function is compromised to produce hyperpigmented lesions. As such, this research will seek to provide insights into mechanisms responsible for clinically abnormal hyperpigmentation such as occurs in postinflammatory hyperpigmentation and other pigmentary diseases. NCI has successfully characterized the melanogenetic functions of several pigmentary genes that are important to the regulation of mammalian pigmentation. The NCI has produced a number of specific antibodies which recognize those gene products as well as a number of oligonucleotides and cDNAs whereby expression of their encoding genes can be quantitated. The selected sponsor will collaborate in a project aimed at using those probes to characterize melanocyte function in hyperpigmentary conditions and to develop agents useful commercially to down regulate melanogenic function.

ADDRESSES: Inquiries and proposals regarding this opportunity should be addressed to Mark Noel or Bert Zbar (Telephone (301) 496–0477, Facsimile (301) 402–2117), Office of Technology Development, National Cancer Institute, Bldg 31, Room 4A49, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892

DATES: Proposals must be received at the above address by no later than May 22, 1995.

SUPPLEMENTARY INFORMATION:

''Cooperative Research and Development Agreement'' or ''CRADA'' means the anticipated joint agreement to be entered into by NCI pursuant to the Federal Technology Transfer Act of 1986 and Executive Order 12591 of October 10, 1987 to collaborate on the specific research project described below.

The NCI is seeking a pharmaceutical or cosmetic company which can lend

resources and scientific expertise to a project aimed at identifying mechanisms responsible for abnormal melanocyte function in clinical hyperpigmentary conditions. Little is known about the level of abnormal function of melanocytes in a number of clinical conditions of hyperpigmentation, such as occurs in postinflammation, wound healing and/or photodamaged/age pigmented lesions. This proposed study will employ a number of antibodies specific for melanogenic proteins to examine melanocyte function, and thus levels of melanogenic protein expression, in such lesions. DNA probes specific for the encoding genes will be used to characterize the level of abnormal regulation of any gene products so identified. Approaches will be designed to attempt to correct abnormal expression of such genes, or the function of their encoded proteins and thus down-regulate pigmentation *in vitro,* with the ultimate goal of developing commercially useful therapeutic agents to treat conditions of epidermal hyperpigmentation. Since pigment production is inherently associated with photoprotection against UV-induced carcinogenesis, further benefit of these studies towards photoprotection may evolve. The CRADA will allow the selected partner to provide expertise and resources, in collaboration with NCI, for the preclinical development of agents useful in the treatment of epidermal hyperpigmentary conditions. Further clinical development of such agents may also be made subject to this agreement, or a separate agreement at a later date, and upon mutual agreement of the parties.

The expected duration of the CRADA will be three (3) to five (5) years.

The role of the National Cancer Institute, the Division of Cancer Biology, Diagnosis and Centers includes:

1. NCI will provide specific antibodies and probes useful to examine expression of pigmentary genes in hyperpigmented tissues.
2. NCI will perform enzymatic assays that measure melanogenic protein function in hyperpigmented tissues.
3. NCI will examine melanocyte function via expression of pigmentary genes in hyperpigmentary lesions.
4. NCI will screen potential inhibitors or down-regulators of melanogenic activity using in vitro techniques with melanocytes in culture.
5. NCI will collaborate with the corporate partner on the design of experiments and evalutation of results.

The role of the successful corporate partner will include:

1. Supply expertise in melanocyte function in hyperpigmentary disorders.
2. Supply potential melanogenic inhibitors or down-regulators of melanogenic activity for testing.
3. Provide funds to support a postdoctoral fellow and associated expenses of the study.
4. The corporate partner will collaborate with the NCI on the design of experiments and the evaluation of results.

Criteria for choosing the collaborating company will include:

1. Experience in the study of hyperpigmentary disorders.
2. Ability to provide adequate amounts of potential melanogenic inhibitors or down regulators of melanogenic activity for the preclinical studies which are subject to the research plan.
3. Experience and ability to produce, package, market and distribute pharmaceutical and/or cosmetic products, including experience with the regulatory approval process and with the FDA.
4. Willingness to cooperate with the NCI in the collection, evaluation, maintenance and publication of data from the investigation.
5. Willingness to share costs of the laboratory studies.
6. An agreement to be bound by DHHS rules involving the use of human and animal subjects, and human tissue.
7. Provisions for equitable distribution of patent rights to any inventions. Generally the rights of ownership are retained by the organization which is the employer of the inventor, with (1) an irrevocable, nonexclusive, royalty-free license to the Government (when a company employee is the sole inventor) or (2) an option to negotiate an exclusive or nonexclusive license to the company on terms that are appropriate (when the Government employee is the sole inventor or where a joint invention arises)

Thomas Mays,

Director, Office of Technology Development, National Cancer Institute.

[FR Doc. 95–6855 Filed 3–20–95; 8:45 am]

BILLING CODE 4140–01–P

National Institute of Environmental Health Sciences: Opportunity for a Cooperative Research and Development Agreement (CRADA) and/or Licensing Opportunity for Preparative Two Dimensional Gel Electrophoresis System

AGENCY: National Institute of Environmental Health Sciences, National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH) is seeking CRADA partners and/or licensees for the further development, evaluation, and commercialization of a Preparative Two Dimensional Gel Electrophoresis System (U.S. Patent Application Serial No. 08/243,643, filed May 16, 1994) for protein analysis and characterization. The National Institute of Environmental Health Sciences has also determined that the developed technology can be utilized in other scientific areas. The invention claimed in the above-referenced patent application is available for either further development under a CRADA and/or exclusive or non-exclusive licensing (in accordance with 35 U.S.C 207 and 37 CFR part 404) for the applications described below under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: CRADA proposals and questions about this opportunity may be addressed to Dr. B. Alex Merrick, NIEHS, Mail Drop D4–03, P.O. Box 12233, Research Triangle Park, NC 27709 (Telephone: 919/541–1531; Fax: 919/541–4704; Email: MERRICK@NIEHS.NIH.GOV). CRADA proposals must be received by the date specified below.

Licensing proposals and questions about this opportunity should be addressed to: David Sadowski, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Rockville, MD 20852 (Telephone: 301/496–7735 ext. 288; Fax: 301/402–0220).

Information on the patent application and pertinent information not yet publicly described can be obtained under a Confidential Disclosure Agreement. Respondees interested in licensing the invention(s) will be required to submit an Application for License to Public Health Service Inventions. Respondees interested in submitting a CRADA proposal should be aware that it may be necessary to secure a license to the above patent rights in order to commercialize products arising from a CRADA agreement.

DATES: Capability statements/CRADA proposals must be received by NIH on or before May 22, 1995. There is no

deadline by which license applications must be received.

SUPPLEMENTARY INFORMATION:

The National Institute of Environmental Health Sciences has developed procedures and a prototype device for isolation of proteins from complex mixtures for protein sequencing. The system serves as a one-step purification method for isolation of biologically relevant proteins affected by disease or experimental treatment and has been described in Electrophoresis 15,535–545,1994. The system includes a preparative isoelectric focusing device for separation of proteins by charge, a glass mold for preparative polyacrylamide gel separation by mass and a protocol for use.

The commercial advantage of the Preparative Two Dimensional Gel Electrophoresis system is to separate and isolate sufficient amounts of individual protein for sequencing in a powerful one-step purification method. The Preparative Two Dimensional Gel Electrophoresis system can resolve individual proteins by charge and mass from up to 1 to 2 mg of unpurified starting material from protein mixtures. Current devices for two dimensional gel electrophoresis are generally for analytical scale work and are not physically or procedurally adapted to accommodate preparative sample loads. Although other preparative electrophoresis devices do exist, they separate by either mass or charge alone and function as stand-alone units without ready integration into additional systems for resolution of individual proteins.

The developed technology has applications for protein sequencing, protein immunization for antibody production, immunostaining and other modes of protein characterization. Although the system has been tested and is operational, some refinements in protein resolution are still possible which may involve procedural, reagent or equipment modifications.

The CRADA awardees will have an option to negotiate for an exclusive license to market and commercialize any new technology developed within the scope of the CRADA research plan for the Preparative Two Dimensional Gel Electrophoresis System. This CRADA may be directed toward the co-development of improved preparative electrophoresis equipment and pertinent procedures.

Roles of NIEHS

1. Provide design and specifications of an operating prototype device, provide a protocol for prototype operation, provide user expertise, and assist in beta testing.

2. Work cooperatively with the company(s) to determine the market potential for the Preparative Two Dimensional Gel Electrophoresis system and to refine the prototype system.

Roles of the CRADA Partner

1. Provide expertise in application and commercial-oriented separation systems.

2. Develop plan for production, testing and commercialization of Preparative Two Dimensional Gel Electrophoresis system.

Selection criteria for choosing the CRADA partner(s) will include, but will not be limited to the following:

1. Experience in manufacturing electrophoresis devices or related separation technologies.

2. Capability to develop, implement and manage the product commercialization so as to ensure the dissemination of the technology(s) to research or health care services.

3. Ability to cost share for production and testing of a preparative two-dimensional gel electrophoresis device.

Dated: March 13, 1995.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 95–6854 Filed 3–20–95; 8:45 am]

BILLING CODE 4140–01–P

National Heart, Lung, and Blood Institute; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the following Heart, Lung, and Blood Special Emphasis Panel.

The meeting will be open to the public to provide concept review of proposed contract or grant solicitations.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

Name of Panel: NHLBI SEP on Blood Diseases.

Dates of Meeting: April 27–28, 1995.

Time of Meeting: 9 a.m.

Place of Meeting: National Institutes of Health, Natcher Building, Building 45, Lower Level Room D, Bethesda, Maryland.

Agenda: The panel will review the current status of research in the designated areas, identify gaps and make recommendations regarding opportunities and priorities for future contract or grant solicitations.

Contact Person: Dr. Fann Harding, 7550 Wisconsin Avenue, Room 5A08, Bethesda, Maryland 20892, (301) 496–1817.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: March 14, 1995.

Margery G. Grubb,

Senior Committee Management Specialist, National Institutes of Health.

[FR Doc. 95–6851 Filed 3–20–95; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Response and Adaptation to Exercise-Unit II (Telephone Conference Call).

Date: April 6, 1995.

Time: 1 p.m.

Place: 5333 Westbard Avenue, Room 552, Bethesda, Maryland.

Contact Person: S. Charles Selden, Ph.D., 5333 Westbard Avenue, Room 552, Bethesda, Maryland 20892, (301) 594–7476.

Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: The Insulin in Resistance Atherosclerosis Study (IRAS).

Date: April 18, 1995.

Time: 12:30 p.m.

Place: Crystal Gateway Marriott, Arlington, Virginia.

Contact Person: David Monsees, Jr., Ph.D., 5333 Westbard Avenue, Room 550, Bethesda, Maryland 20892, (301) 594–7450.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: March 14, 1995.

Margery G. Grubb,

Senior Committee Management Specialist, National Institutes of Health.

[FR Doc. 95–6850 Filed 3–20–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meeting:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Multidisciplinary Sciences.

Date: April 7, 1995.

Time: 9:30 a.m.

Place: Hyatt Regency, Bethesda, MD.

Contact Person: Dr. Catharine Wingate, Scientific Review Admin. 5333 Westbard Avenue, Room 357, Bethesda, MD 20892, (301) 594–7295.

The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 14, 1995.

Margery G. Grubb,

Senior Committee Management Specialist, National Institutes of Health.

[FR Doc. 95–6852 Filed 3–20–95; 8:45 am]

BILLING CODE 4140–01–M

Opportunity For a License: Live, Attenuated Bovine Parainfluenza Virus Type 3 (BPIV–3) for Use as a Vaccine to Protect Infants and Children Against Disease(s) Caused by Human Parainfluenza Virus Type 3 (HPIV–3)

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH), Department of Health and Human Services (DHHS), seeks licensee(s) who can effectively pursue the clinical and commercial development of a live, attenuated BPIV–3 vaccine. Several common childhood acute respiratory illnesses, including croup, pneumonia and bronchiolitis, are caused by HPIV–3 viral infection. Briefly, the National Institute of Allergy and Infectious Diseases (NIAID) has supported the clinical research development of this experimental vaccine in a series of phase I trials and has evidence that this candidate live virus could be used as a safe and immunogenic pediatric vaccine against HPIV–3. The NIAID is interested in having these efforts utilized for the public good, as mandated by the Federal Technology Transfer Act (FTTA) of 1986, by transferring certain unpatented biological materials to a company. For consideration, prospective licensee(s) should be capable of further developing and eventually commercializing a live attenuated BPIV–3 vaccine. Furthermore, the prospective industrial partner should have: An aggressive clinical development plan for BPIV–3; access to suitably equipped manufacturing facilities for large-scale production of the candidate vaccine; relevant experience in obtaining regulatory approval for other vaccines. NIAID scientists would provide the relevant BPIV–3 viral strains as well as supply information and data from the completed phase I clinical studies. This information is available for confidential evaluation to interested parties following the acceptance of standard confidentiality terms. The deadline for submitting a license application will be 90 days from March 21, 1995.

ADDRESSES: Requests for a summary of the clinical trial results and additional scientific information about the BPIV–3 vaccine as well as other questions and comments concerning clinical aspects this technology should be directed to: Claire T. Driscoll, Technology Transfer Specialist, Technology Transfer Branch, NIAID, NIH, Building 31, Room 7A32, 9000 Rockville Pike, Bethesda, MD 20892. Telephone (301) 496–2644; E-mail: Claire Driscoll@d31.niaid.pc.niaid.nih.gov; Fax (301) 402–7123.

Requests for a copy of the license application form, or other questions and comments concerning the licensing of this technology should be directed to: Steven M. Ferguson, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804. Telephone (301) 496–7735 extension 266; E-mail: fergusos@od6100m1.od.nih.gov; Fax (301) 402–0220.

Dated: March 13, 1995.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 95–6853 Filed 3–20–95; 8:45 am]

BILLING CODE 4140–01–P

Public Health Service

National Center for Health Statistics

AGENCY: National Center for Health Statistics, DHHS.

ACTION: Notice of meeting.

SUMMARY: The ICD–9–CM Coordination and Maintenance Committee (C&M) will be holding its first meeting of the year on Friday May 5, 1995. The C&M meeting is a public forum for the presentation of proposed modifications to the International Classification of Diseases, ninth-revision, clinical modification.

DATES: The meeting will be held on May 5, 1995 from 9:00 a.m.–5:00 p.m.

ADDRESSES: The Hubert H. Humphrey Building, rm. 703A, 200 Independence Avenue, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Amy Blum, 301–436–4216.

SUPPLEMENTARY INFORMATION: Tentative agenda:

Tobacco related illness Coordination disorders
Concussion versus Head Injury NOS
Chlamydial Pneumonia Atherosclerosis
Late Amputation Stump Complications
Laparoscopic Appendectomy
Development of ICD–10 Procedure Classification
Addenda

Sue Meads,

Co-chair, ICD–9–CM Coordination and Maintenance Committee.

[FR Doc. 95–6884 Filed 3–20–95; 8:45 am]

BILLING CODE 4160–18–M

Substance Abuse and Mental Health Services Administration

Supplemental Awards for Addiction Training Centers Grantees

AGENCY: Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Availability of supplemental funds for currently funded grantees in the Center for Substance Abuse Treatment (CSAT) addiction training centers cooperative agreement program.

SUMMARY: This notice is to inform the public that CSAT is making available approximately $1.7 million for supplemental awards in fiscal year 1995 to existing grantees in its Addiction Training Centers (ATCs) program. Competition is being limited to the eleven currently funded ATCs because their unique training infrastructure is well established and will permit the additional activities described below to

be implemented quickly and within the available funding. Supplemental awards will be made based on the receipt of satisfactory applications that are approved by a peer review group and the CSAT National Advisory Council.

Approximately $550,000 is available for up to four supplemental awards to ATCs for geographic expansion to broaden the geographic areas covered by existing ATCs. Applications are invited for the expansion of an ATC into a minimum of one additional contiguous State to provide addictions training and financial support for addiction counselors and a minimum of one other health or allied health care discipline.

Approximately $1.2 million is available for up to four supplemental awards to ATCs for criminal justice training. Applications are invited for the delivery of cross-training for probation, parole, corrections and public health/mental health/addictions treatment personnel. Applicants must agree to provide training for a region of two or more contiguous States.

Authority: Supplemental awards will be made under authority of Section 512(a) of the Public Health Service Act, as amended (42 USC 290bb–5).

The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.131.

FOR FURTHER INFORMATION CONTACT: Edward T. Morgan, Office of Scientific Analysis and Evaluation, CSAT, Rockwall II Building, Suite 618, 5600 Fishers Lane, Rockville, Maryland 20857; Telephone: (301) 443–8831.

Dated: March 14, 1995.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 95–6828 Filed 3–20–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P; AA–11042]

Alaska Native Claims Selection; Notice for Publication

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h), will be issued to Chugach Alaska Corporation for approximately 6.4 acres. The land involved are in the vicinity of Esther Passage, Alaska.

Seward Meridian, Alaska

T. 10 N., R. 8 E.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the ANCHORAGE DAILY NEWS. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until April 20, 1995 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of Gulf Rim Adjudication.

[FR Doc. 95–6859 Filed 3–20–95; 8:45 am]

BILLING CODE 4310–JA–P

National Park Service

Concession Contract Negotiations: Cape Cod National Seashore, MA

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a concession contract authorizing continued operation of the Nauset Knoll Motor Lodge facilities and services for the public at Cape Cod National Seashore for a period of five (5) years from January 1, 1995, through December 31, 1999.

EFFECTIVE: May 22, 1995.

ADDRESSES: Interested parties should contact the Regional Director, North Atlantic Region, Attention: Division of Concession Management, 15 State Street, Boston, Massachusetts 02109–3572, Telephone (617) 223–5209, to obtain a copy of the prospectus describing the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1993, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract, providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the contract will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the contract will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Regional Director not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: February 9, 1995.

Marie Rust,

Regional Director, North Atlantic Region.

[FR Doc. 95–6962 Filed 3–20–95; 8:45 am]

BILLING CODE 4310–70–M

Draft Environmental Impact Statement for Mountain Goat Management Within Olympic National Park, Washington

ACTION: Notice of Availability of Draft Environmental Impact Statement.

SUMMARY: This Notice announces the availability of a Draft Environmental Impact Statement (DEIS) for mountain goat management within Olympic National Park, Washington. This Notice also announces two public meetings for the purpose of receiving public comments on the DEIS.

DATES: Written comments on the DEIS should be received no later than May 22, 1995. The dates of the public meetings regarding the DEIS are 3 May (Wednesday) 1995 and 4 May (Thursday) 1995.

ADDRESSES: Written comments should be submitted to: Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, WA 93362.

The first public meeting will be at the Jackson Federal Building, 915 Second Avenue, Seattle, Washington, from 7:00 p.m. to 10:00 p.m. on Wednesday, 3 May 1995, in the 4th Floor North Auditorium (enter the building from First Avenue). The second meeting will be at the Vern Burton Community Center, 308 East Fourth Street, Port Angeles, Washington, from 7:00 p.m. to 10:00 p.m. on Thursday, 4 May 1995.

Public reading copies of the DEIS will be available for review at the following locations:

Office of Public Affairs, National Park Service, 1849 C. St., NW., Washington, D.C.
Pacific Northwest Regional Office, National Park Service, 909 First Avenue, Seattle, Washington
Alaska Regional Office, National Park Service, 2525 Gambell St., Anchorage, Alaska
Mid-Atlantic Regional Office, National Park Service, 143 South Third St., Philadelphia, Pennsylvania
Midwest Regional Office, National Park Service, 1709 Jackson St., Omaha, Nebraska
North Atlantic Regional Office, National Park Service, 15 State St., Boston, Massachusetts
Rocky Mountain Regional Office, National Park Service, 12795 West Alameda Parkway, Denver, Colorado
Southeast Regional Office, National Park Service, 75 Spring St., SW., Atlanta, Georgia
Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico
Western Regional Office, National Park Service, 600 Hrrison St., Suite 600, San Francisco, California
Olympbic National Forest Headquarters, U.S. Forest Service, 1835 Black Lake Blvd., SW., Olympia, Washington
Pacific Northwest Regional Office, U.S. Forest Service, 333 SW 1st Ave., Portland, Oregon

A limited number of copies of the DEIS are available on request from the Superintendent, Olympic National Park, at the above address.

SUPPLEMENTARY INFORMATION: Mountain goats are not native to Washington's Olympic Peninsula, but were introduced there in the 1920's apparently to develop a population for hunting. Olympic National Park was established in 1938 and hunting was subsequently prohibited on park lands. The introduced goat population grew in size and dispersed throughout suitable areas of the peninsula, with most concentrating within the National Park. By 1983, the goat population on the peninsula was estimated to be approximately 1,175± 171 (Standard Error). During the 1980's, Olympic National Park staff conducted experimental and operational management programs to reduce goat populations using translocation and reproductive control methods. A census conducted in 1990 documented a population of 389± 106 (Standard Error). Results from an additional census in 1994 showed no statistical difference from the 1990 results. The non-native goats are causing significant impacts to native ecosystem processes and components within Olympic National Park. Documented goat impacts on vegetation include changes in dominance and competitive relationships between plant species which alter the relative abundance of species in native communities. Goats directly and indirectly alter plant communities through changes in plant structure, reproductive patterns, growth rates, and seedling establishment. Threats to 33 known rare and/or endemic plant taxa from goat trampling, wallowing, and grazing include risks to individual plants, subpopulations, and populations. The Olympic Mt. milkvetch (*Astragalus australis var. olympicus*) is proposed for listing by the U.S. Fish and Wildlife Service as threatened or endangered and is listed as threatened by the Washington Natural Heritage Program. The world's entire known population of this species contains only 3,800-4,000 plants, all of which are within goat habitat of the Olympic Mountains. Soil impacts from goats include wallows and trailing.

The Draft Environmental Impact Statement describes and analyzes three alternatives for future management of mountain goats within Olympic National Park. Alternative 1 (the proposed action) is the National Park Service's preferred alternative. This alternative proposes elimination of mountain goats from the park by shooting from helicopters. Ecosystem impacts from goats would cease in approximately three years. Alternative 2 (the no-action alternative) identifies no active management of the park's mountain goats, other than monitoring. The goat population would likely increase to approximately 1,400 animals and impacts to native ecosystems would increase dramatically. Alternative 3 is similar to Alternative 1 except that it allows for a short-term, live-capture program before elimination by shooting. Ecosystem impacts from goats would cease in approximately four years.

Dated: March 10, 1995.

William C. Walters,

Acting Regional Director, Pacific Northwest Region, National Park Service.

[FR Doc. 95–6963 Filed 3–20–95; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 11, 1995. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by April 5, 1995.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Mississippi County

Herman Davis Memorial, Jct. of Baltimore Ave. and AR 18, NE corner, Manila, 95000379

Pulaski County

Barlow Apartments (Little Rock Apartment Buildings MPS), 2115 Scott St., Little Rock, 95000376
Holcomb Court Apartments (Little Rock Apartment Buildings MPS), 2201 Main St., Little Rock, 95000377
Luxor Apartments (Little Rock Apartment Buildings MPS), 1923 Main St., Little Rock, 95000375
South Main Street Apartments Historic District (Little Rock Apartment Buildings MPS), 2209–2213 Main St., Little Rock, 95000378

CALIFORNIA

Los Angeles County

Palos Verdes Public Library and Art Gallery, 2400 Via Campesina, Palos Verdes Estates, 95000388

San Diego County

Rosicrucian Fellowship Temple, 2222 Mission Ave., Oceanside, 95000390

San Mateo County

Sequoia Union High School, 1201 Brewster Ave., Redwood City, 95000389

FLORIDA

Suwannee County

Allison, George House, 418 W. Duval St., Live Oak, 95000369

IOWA

Cedar County

West Branch Commercial Historic District (Boundary Increase), 124 W. Main St., West Branch, 95000386

Floyd County

Lane, Lucius and Maria Clinton, House, 2379 Timber Ave., Charles City vicinity, 95000384

Jackson County

Squiers, J.E., House (Maquoketa MPS), 418 W. Pleasant St., Maquoketa, 95000385

LOUISIANA

Rapides Parish

Carnahan House, 212 Ulster Ave., Boyce, 95000373

St. Landry Parish

Wier House, 310 E. Bellevue St. Opelousas, 95000368

West Baton Rouge Parish

Smithfield Plantation House, 12445 N River Rd., Port Allen vicinity, 95000387

MICHIGAN

Charlevoix County

Horton Bay House—Red Fox Inn, 05156 Boyne City Rd., Bay Township, Horton Bay, 95000372

Sanilac County

Matthews, Thomas and Margaret Spencer, Farm, 5916 E. Gardner Line Rd., Worth Township, Amador vicinity, 95000371

MISSOURI

Hickory County

Quincy Public Hall, MO 83, Quincy, 95000370

MONTANA

Carbon County

Kent Dairy Round Barn, US 212, 2 mi. N of Red Lodge, Red Lodge vicinity, 95000381

Lewis and Clark County

Power, C.B., Bungalow, 1.2 mi. N of I–15 and 1 mi. W of US 287, Wolf Creek vicinity, 95000380

Stearns Hall, 2 mi. N of jct. of MT 200 and Hwy. 434, Wolf Creek vicinity, 95000382

Petroleum County

Winnett School, Address unavailable, Winnett, 95000383

TEXAS

Presidio County

El Fortin del Cibolo Historic District (Historic Resources Associated with Milton Faver, Agriculturist, MPS), Approximately 4 mi. NW of Shafter, W of US 67, Shafter vicinity, 95000366

La Morita Historic District (Historic Resources Associated with Milton Faver, Agriculturist, MPS), Approximately 5 mi. SW of Shafter, E of US 67, Shafter vicinity, 95000367

VERMONT

Windham County

Green River Crib Dam, Green River Rd. (Town Hwy. # 5), Guilford, 95000374

VIRGINIA

Clarke County

Josephine City School, 301–A Josephine St., Berryville, 95000397

Prince Edward County

Buffalo Presbyterian Church, VA 659, 0.3 mi. S of jct. with VA 658, Pamplin vicinity, 95000395

Rockbridge County

Rockbridge Inn, Valley Rd., N side, at jct. with VA 743, Natural Bridge vicinity, 95000398

Sussex County

Hunting Quarter, VA 632, S of jct. with VA 608, Haverly vicinity, 95000396

Suffolk Independent City

Chuckatuck Historic District, Jct. of VA 10/32 and VA 125, Suffolk (Independent City), 95000393

Driver Historic District, Jct. of VA 125 and VA 629, Suffolk (Independent City), 95000394

Whaleyville Historic District, Jct. of US 13 and VA 616, Suffolk (Independent City), 95000392

[FR Doc. 95–6856 Filed 3–20–95; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–365]

Decision Not To Review an Initial Determination Finding a Violation of Section 337 and Schedule for the Filing of Written Submissions on Remedy, the Public Interest, and Bonding

In the Matter of: Certain Audible Alarm Devices for Divers.

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the initial determination (ID) issued on February 2, 1995, by the presiding administrative law judge (ALJ) in the above-captioned investigation finding a violation of section 337 in the importation and sale of certain audible alarm devices for divers.

FOR FURTHER INFORMATION CONTACT: Rhonda M. Hughes, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3083. Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone 202–205–3000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: On June 8, 1994, the Commission instituted an investigation of a complaint filed by David A. Hancock and Ideations Design Inc. under section 337 of the Tariff Act of 1930. The complaint alleged that Duton Industry Co., Ltd. (Duton) of Taipei, Taiwan and IHK International Corp. (IHK) of Torrance, California had imported, sold for importation, and sold within the United States after importation certain audible alarm devices for divers by reason of infringement of claim 6 of U.S. Letters Patent 4,950,107 (the '107 patent) and claim 1 of U.S. Letters Patent 5,106,236 (the '236 patent). The Commission's notice of investigation named as respondents Duton and IHK, each of which was alleged to have committed one or more unfair acts in the importation or sale of audible alarm devices for divers that infringe the asserted patent claims.

The ALJ conducted an evidentiary hearing commencing on October 11, 1994, and issued her final ID on February 2, 1995. She found that: (1) claim 6 of the '107 patent and claim 1 of the '236 patent are valid and enforceable; (2) there is a domestic industry manufacturing and selling products protected by these two claims; (3) respondent IHK has imported products that infringe claim 6 of the '107 patent and claim 1 of the '236 patent, and respondent Duton has exported to the United States products that infringe claim 6 of the '107 patent and claim 1 of the '236 patent. Based upon her findings of validity, infringement, and domestic industry, the ALJ concluded that there was a violation of section 337.

No petitions for review of the ID were filed and, consequently, no responses thereto were filed. No government comments on the ID were received by the Commission.

In connection with final disposition of this investigation, the Commission may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written

submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see the Commission Opinion, In the Matter of Certain Devices for Connecting Computers via Telephone Lines, Inv. No. 337–TA–360.

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed, if remedial orders are issued.

Written Submissions

The parties to the investigation, interested government agencies, and any other interested persons are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainants and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than the close of business on April 3, 1995. Reply submissions must be filed no later than the close of business on April 10, 1995. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 C.F.R. § 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and §§ 210.53 and 210.58 of the Commission's interim rules of practice and procedure (19 CFR 210.53 and 210.58).

Issued: March 13, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–6865 Filed 3–20–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigations Nos. 731–TA–700–701 (Final)]

Commission Determination To Conduct a Portion of the Hearing in Camera

In the Matter of: Disposable Lighters From the People's Republic of China and Thailand.

AGENCY: U.S. International Trade Commission.

ACTION: Closure of a portion of a Commission hearing to the public.

SUMMARY: Upon request of respondent Thai Merry Co., Ltd. (Thai Merry) in the above-captioned final investigations, the Commission has unanimously determined to conduct a portion of its hearing scheduled for March 21, 1995, *in camera*. See Commission rules 207.23(d), 201.13(m) and 201.35(b)(3) (19 CFR 207.23(d), 201.13(m) and 201.35(b)(3), as amended, 59 FR 66719 (Dec. 28, 1994)). The remainder of the hearing will be open to the public. The Commission has unanimously determined that the seven-day advance notice of the change to a meeting was not possible. See Commission rule 201.35(a), (c)(1) (19 CFR 201.35(a), (c)(1), as amended, 59 FR 66719 (Dec. 28, 1994)).

FOR FURTHER INFORMATION CONTACT: Rhonda M. Hughes, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3083. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission believes that Thai Merry has justified the need for a closed session. Because petitioner BIC Corporation is the sole domestic producer, a full discussion of petitioner's financial condition and of many of the indicators that the Commission examines in assessing material reason by reason of subject imports can only occur if at least part of the hearing is held *in camera*. In addition, because Thai Merry is the sole participating Thai respondent in these investigations and because the Commission's preliminary determination that there was a reasonable indication that imports from Thailand pose a threat of material injury to the domestic industry, any discussion of Thai producer and importer data as required by the Commission's analysis of the statutory factors pertaining to a finding of threat of material injury by reason of those imports will necessitate disclosure of business proprietary information (BPI). Thus, such a discussion can only occur if a portion of the hearing is held *in camera*. In making this decision, the Commission nevertheless reaffirms its belief that whenever possible its business should be conducted in public.

The hearing will include the usual public presentations by petitioner and by respondents, with questions from the Commission. In addition, the hearing will include an *in camera* session for a presentation including BPI by respondents and for questions from the Commission relating to the BPI. For any *in camera* session the room will be cleared of all persons except: those who have been granted access to BPI under a Commission administrative protective order (APO) and are included on the Commission's APO service list in these investigations. See 19 CFR 201.35(b)(1), (2). In addition, if petitioner's BPI will be discussed in the *in camera* session, personnel of petitioner may also be granted access to the closed session. Similarly, if respondents' BPI will be discussed in the *in camera* session, personnel of respondents may also be granted access to the closed session. See 19 CFR 201.35(b)(1), (2). The time for the parties' presentations and rebuttals in the *in camera* session will be taken from their respective overall allotments for the hearing. All persons planning to attend the *in camera* portions of the

hearing should be prepared to present proper identification.

Authority: The General Counsel has certified, pursuant to Commission Rule 201.39 (19 CFR 201.39) that, in her opinion, a portion of the Commission's hearing in *Disposable Lighters from the People's Republic of China and Thailand*, Invs. Nos. 731–TA–700–701 (Final) may be closed to the public to prevent the disclosure of BPI.

Issued: March 15, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–6863 Filed 3–20–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 731–TA–718 (Final)]

Glycine From the People's Republic of China

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is threatened with material injury by reason of imports from the People's Republic of China (China) of glycine,[2] provided for in subheading 2922.49.40 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).[3]

Background

The Commission instituted this investigation effective November 15, 1994, following a preliminary determination by Commerce that imports of glycine from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of December 8, 1994 (59 FR 63378). The hearing was held in Washington, DC, on February 9, 1995, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on March 14, 1995. The views of the Commission are contained in USITC Publication 2863 (March 1995), entitled ''Glycine from the People's Republic of China: Investigation No. 731–TA–718 (Final).''

Issued: March 15, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–6864 Filed 3–20–95; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's rules of practice and procedure (19 CFR 207.2(f)).

[2] The product covered by this investigation is glycine which is a free-flowing crystalline material, like salt or sugar. Glycine is produced at varying levels of purity and is used as a sweetener/taste enhancer, a buffering agent, reabsorbable amino acid, chemical intermediate, and a metal complexing agent. The scope of this investigation includes glycine of all purity levels.

[3] Commissioner Crawford and Commissioner Bragg determine that an industry in the United States is materially injured by reason of imports of glycine from China that Commerce has found to be sold in the United States at LTFV.

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub-No. 504X)]

CSX Transportation, Inc.—Abandonment Exemption—In Indiana County, PA

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon approximately 11.25 miles of line between milepost 5.83 near Shelocta and milepost 17.08 near Clarksburg, in Indiana County, PA. CSXT's proposed consummation date of this abandonment is April 24, 1995.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 20, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 [3] must be filed by March 31, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 10, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water St. J150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the exemption is void ab initio.

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by March 24, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: March 14, 1995.

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made before the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–6897 Filed 3–20–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–416 (Sub-No. 2X)]

San Bernardino Associated Governments—Abandonment Exemption—San Bernardino County, CA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 10903–10904 the abandonment by the San Bernardino Associated Governments of 1.94 miles of rail line on the Redlands Subdivision, between milepost 11.40 and milepost 13.34, in San Bernardino County, CA, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on April 10, 1995. Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [1] and petitions to stay must be filed by March 31, 1995. Requests for a public use condition and petitions to reopen must be filed by April 10, 1995.

ADDRESSES: Any comments must be filed with the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on petitioner's representative: Charles A. Spitulnik, Hopkins & Sutter, 888 16th Street, N.W., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Room 2229, Washington, D.C. 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

Decided: March 9, 1995.

[1] *See Exempt. of Rail Abandonment*—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

By the Commission, Chairman McDonald, Vice Chairman Morgan, and Commissioners Simmons and Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 95–6899 Filed 3–20–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on March 9, 1995, a proposed Consent Decree in *United States* v. *Arrowhead Refining Co. et al.*, Civil Action 5–89–202, was lodged with the United States District Court for the District of Minnesota. This consent decree represents a settlement of claims against 209 parties under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 *et seq.* (CERCLA).

The consent decree requires 44 parties (the Settling Defendants) to perform one component of the remedial action (the ''sludge pit'' clean-up) at the Arrowhead Refining Co. Site (the Site) at an approximate cost of $12.52 million. These parties have already spent $6.4 million in Site related investigative and response activities. In addition, the Settling Defendants are required to pay an additional $134,800 to federal and state natural resources trustees for use in habitat restoration projects.

One hundred and sixty-five other parties, including De Minimis and De Micromis parties, ''Hardship'' parties, a defunct owner/operator, eight federal entities, and several oil company defendants, will contribute financially to the Settling Defendants' performance of the remedial action.

This settlement was part of EPA's Mixed Funding Pilot Project. In addition to the work to be performed by the Settling Defendants, EPA and the Minnesota Pollution Control Agency (MPCA) intend to undertake the remaining soils and gourndwater components of the remedial action as ''mixed work.'' These portions of the remedy are expected to cost approximately $6.35 million and $1.0 million, respectively.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer *United States* v. *Arrowhead Refining Co. et al.* D.J. Ref. 90–11–3–164.

The proposed Consent Decree may be examined at the Office of the United States Attorney, District of Minnesota, 234 U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minnesota, at the Region V Office of the Environmental Protection Agency, 200 West Adams Street, Chicago, Illinois, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount $26.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–6895 Filed 3–20–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Modification of Consent Decree Under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Department policy, 28 CFR 50.7 and 42 U.S.C. 9622(d)(2), notice is hereby given that on February 27, 1995 a proposed Modification of Consent Decree in *United States* v. *Champion International Corporation*, Civil Action No. CV–89–127–M–CCL, was lodged with the United States District Court for the District of Montana. The consent decree in this case was entered on October 18, 1989 pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9606 and 9607, between the United States and Champion International Corporation (''Champion'') to resolve the CERCLA liability of Champion for the Libby Groundwater National Priorities List Superfund Site located in Libby, Montana. The decree required Champion, *inter alia,* to implement the December 1988 Record of Decision (''ROD'') issued by the United States Environmental Protection Agency (''EPA'') for the Site. The decree provided a covenant not to sue Champion by the United States under

Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, for the Site except that claims of the United States against Champion regarding deep aquifer contamination were reserved.

The proposed Modification of Consent Decree requires Champion to implement the September 1993 Explanation of Significant Differences (''ESD'') issued by EPA. The ESD waives the soils remediation levels for pyrene, napthalene and phenanthrene while maintaining overall protectiveness of public health and the environment. The ESD also selects monitoring and institutional controls on usage as a final remedy for the deep aquifer. Under the proposed Modification of Consent Decree, Champion is required to implement the ESD and the covenants not to sue in the consent decree are extended to cover the deep aquifer contamination at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Modification of Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Champion International Corporation*, DOJ Ref. No. 90–11–2–379.

The proposed Modification of Consent Decree may be examined at the Montana Operations Office of the United States Environmental Protection Agency, Region VIII, Federal Building, Room 285, 301 S. Park, Helena, Montana 59626. Copies of the proposed Modification of Consent Decree may also be examined at or obtained by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, DC 2005 (202–624–0892). When requesting a copy of the proposed Modification of Consent Decree by mail, please enclose a check in the amount of $3.75 (twenty-five cents per page reproduction costs) payable to the ''Consent Decree Library.''

Joel Gross,

Acting Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 95–6894 Filed 3–20–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Consent Decree in Action Brought Under the Clean Air Act

Notice is hereby given that a proposed Consent Decree in *United States* v. *Lafarge, et al.*, Civil Action No. 4–94CV–356Y, was lodged with the United States District Court for the Northern District of Texas on February 15, 1995. This Consent Decree resolves a Complaint filed by the United States against Art O'Shea pursuant to Section 112 of the Clean Air Act, 42 U.S.C. 7412.

The United States Department of Justice brought this action on behalf of the U.S. Environmental Protection Agency, seeking to impose civil penalties and injunctive relief on Lafarge, Inc., Victor Yorstoun and Art O'Shea for their alleged violations of the National Emission Standards for Hazardous Air Pollutants (''the NESHAP'') for asbestos during demolition activities at a mill building at the Lafarge cement manufacturing and distribution facility in Fort Worth, Texas. The NESHAP for asbestos consists of regulations promulgated by EPA pursuant to the Clean Air Act.

The settlement in this case requires defendant O'Shea to pay a civil penalty of $500 and comply with the asbestos NESHAP in all future demolition and activities which he owns or operates.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044 and refer to *United States* v. *Lafarge*, DOJ number 90–5–2–1–1865.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Northern District of Texas, 801 Cherry Street, Suite 1700, Forth Worth, Texas 76102, and at the U.S. Environmental Protection Agency, Office of the Regional Counsel, Region VI, 1445 Ross Avenue, Dallas, Texas 75202. Copies of the proposed Consent Decree may also be obtained from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. A copy of the proposed Consent Decree may be obtained by mail or in person from the Consent Decree Library. When requesting a copy of the Consent Decree, please enclose a check in the amount of $3.00 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Joel Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–6893 Filed 3–20–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging a Final Judgment by Consent Pursuant to the Comprehensive Environmental Response Compensation and Liability Act (CERCLA)

Notice is hereby given that on March 2, 1995, a proposed consent decree in *United States* v. *Scovill, Inc.*, Civ. A. No. 3:95CV159, was lodged with the United States District Court for the Eastern District of Virginia. The complaint in this action seeks recovery of costs and injunctive relief under Sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99–499, 42 U.S.C. 9606, 9607(a). This action involves the Arrowhead Plating Superfund Site located in Montross, Westmoreland County, Virginia.

Under the proposed Consent Decree, Scovill, Inc. will pay $339,811,48 to reimburse the Superfund for costs incurred by the United States in performing certain response actions at the Arrowhead Plating Superfund Site. The Decree also requires Scovill, Inc. to perform the remedial action for the Site selected in the September 30, 1991 Record of Decision issued by the United States Environmental Protection Agency (''EPA''). The Decree reserves the right of the United States to recover future response costs and seek further injunctive relief against the settling defendants for conditions at the Site that are not known by the United States at the time of entry of this decree.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Scovill, Inc.*, DOJ Reference No. 90–11–3–859.

The proposed consent decree may be examined at the Office of the United States Attorney for the Eastern District of Virginia, Norfolk Division, 101 W. Main Street, Suite 8000, Norfolk, Va. 23510; Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pa.; and at the Consent Decree Library, 1120 ''G'' Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed decree may be obtained in person or by mail from the Consent Decree Library at the address listed above. In requesting a copy, please refer

to the referenced case number, and enclose a check in the amount of $23.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–6892 Filed 3–20–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Advisory Council on Unemployment Compensation; Notice of Hearings; Correction

AGENCY: Employment and Training Administration, USDOL.

ACTION: Correction.

SUMMARY: In notice document 95–5950 beginning on page 13181 in the issue of Friday, March 10, 1995, make the following correction:

On page 13181 in the second column, the time of hearings was previously listed as from 3:30 p.m. to 5:30 p.m. on April 5. This should be changed to read from 2:00 p.m. to 3:00 p.m. on April 5.

Dated: March 15, 1995.

Doug Ross,

Assistant Secretary of Labor.

[FR Doc. 95–6934 Filed 3–20–95; 8:45 am]

BILLING CODE 4510–30–M

Notice of Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities that have submitted attestations (Form ETA 9029 and explanatory statements) to one of four Regional Offices of DOL (Boston, Chicago, Dallas and Seattle) for the purpose of employing nonimmigrant alien nurses. A decision has been made on these organizations' attestations and they are on file with DOL.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N–4456, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S–3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: *Regarding the Attestation Process:* Chief, Division of Foreign Labor Certifications, U.S. Employment Service. Telephone: 202–219–5263 (this is not a toll-free number).

Regarding the Complaint Process: Questions regarding the complaint process for the H–1A nurse attestation program will be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202–219–7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H–1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR Parts 655, Subpart D, and 29 CFR Part 504, (January 6, 1994). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing and those which have been rejected.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staff. If U.S. registered nurses or other persons wish to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities chief executive officer also are listed to aid public inquiries. In addition, attestations and explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the **ADDRESSES** section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under the attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the **ADDRESSES** section of this notice.

Signed at Washington, D.C., this 14th day of March 1995.

John M. Robinson,

Deputy Assistant Secretary, Employment and Training Administration.

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS

[Form ETA–9029]

CEO-Name/Facility name/Address	State	Action date
ETA REGION 1 02/06/95 to 02/12/95		
Neal M. Elliott, New Fairview Health Care Facility, 181 Clifton Street, New Haven, CT 06513, 203–467–1666 ..... ETA CONTROL NUMBER—1/217199 ACTION—ACCEPTED	CT	02/07/95
Kenneth O'Grady, Bringham Hill Nursing Center, Inc., 23 North Bringham Hill, North Grafton, MA 01536, 508–839–4980.	MA	02/07/95

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued

[Form ETA–9029]

CEO-Name/Facility name/Address	State	Action date
ETA CONTROL NUMBER—1/217196 ACTION—ACCEPTED		
Kenneth O'Grady, Upton Nursing Inc., P.O. Box 1100, 145 Main St., Upton, MA 01568, 508–529–6983	MA	02/07/95
ETA CONTROL NUMBER—1/217197 ACTION—ACCEPTED		
George Cannata, Dover Christian Nursing Center, 65 N. Sussex St., Dover, NJ 07801, 201–361–5200	NJ	02/07/95
ETA CONTROL NUMBER—1/217354 ACTION—ACCEPTED		
Paul Baine, H–B Management Services Corp., 1072 Grand Concourse, Bronx, NY 10456, 718–681–4000	NY	02/07/95
ETA CONTROL NUMBER—1/217288 ACTION—ACCEPTED		
Sister Linda Ann Palmisano, Mercy Health & Rehabilitation Ctr., 3 St. Anthony Street, Auburn, NY 13021, 315–253–0351.	NY	02/07/95
ETA CONTROL NUMBER—1/217289 ACTION—ACCEPTED		
Elaine Berg, New York Eye & Ear Infirmary, Second Avenue at 14th Street, New York, NY 10003, 212–979–4000	NY	02/07/95
ETA CONTROL NUMBER—1/217287 ACTION—ACCEPTED		
Lillian Seabrook, Rockaway Care Center, 353 Beach 48th Street, Far Rockaway, NY 11691, 718–471–5000	NY	02/07/95
ETA CONTROL NUMBER—1/217195 ACTION—ACCEPTED		
Ruth Rama Witt, Sharp Nurses, Inc., 215 Park Avenue South, Suite 1304, New York, NY 10003, 212–780–0044	NY	02/07/95
ETA CONTROL NUMBER—1/217200 ACTION—ACCEPTED		
ETA REGION 1 02/13/95 to 02/19/95		
Dan Meyers, Convalescent Center of Norwich Inc., 60 Crouch Avenue, Norwich, CT 06360, 203–889–2639	CT	02/13/95
ETA CONTROL NUMBER—1/217401 ACTION—ACCEPTED		
Sharon H. Turley, Aspen Technology, Incorporated, Ten Canal Park, Cambridge, MA 02141, 617–577–0100	MA	02/13/95
ETA CONTROL NUMBER—1/217494 ACTION—ACCEPTED		
Frederic Delacuesa, Health Personnel Services, 83 School House Lane, East Brunswick, NJ 08816, 908–246–4493	NJ	02/13/95
ETA CONTROL NUMBER—1/217490 ACTION—ACCEPTED		
Dr. Linda Valencia, Valencia, 2113 Klockner Road, Trenton, NJ 08690, 609–586–7887	NJ	02/13/95
ETA CONTROL NUMBER—1/217492 ACTION—ACCEPTED		
Robert Schlundt, South Shore Health Care, Inc., 275 W. Merrick Rd., Freeport, NY 11520, 516–623–4000	NY	02/13/95
ETA CONTROL NUMBER—1/217371 ACTION—ACCEPTED		
Arthur W. Wheeler, Universal Service Center, Ltd., 150 Broadway, Suite 1310, New York, NY 10038, 212–571–3900	NY	02/13/95
ETA CONTROL NUMBER—1/217374 ACTION—ACCEPTED		
ETA REGION 1 02/20/95 to 02/26/95		
Dorothy Miller, Franklin Convalescent Center, 3371 Route 27, Franklin Park, NJ 08823, 908–821–9000	NJ	02/23/95
ETA CONTROL NUMBER—1/217617 ACTION—ACCEPTED		
Irv J. Diamond, Memorial Medical Center at S. Amboy, 540 Bordentown Avenue, S. Amboy, NJ 08879, 908–721–1000.	NJ	02/23/95
ETA CONTROL NUMBER—1/217619 ACTION—ACCEPTED		
Nicholas Silao, Int'l Recruiters of America, Inc., 234 5th Avenue, New York, NY 10001, 212–213–0473	NY	02/23/95
ETA CONTROL NUMBER—1/217549 ACTION—ACCEPTED		
Marie Ferrara, SS Joachim and Anne Residence, 2720 Surf Avenue, Brooklyn, NY 11224, 718–714–4800	NY	02/23/95
ETA CONTROL NUMBER—1/217621 ACTION—ACCEPTED		
ETA REGION 1 02/27/95 to 03/05/95		
Gaudalupe L. Dagayday, Alfa Health Care Group, Inc., 70 Fairview Avenue, Verona, NJ 07044, 201–239–4133	NJ	02/27/95
ETA CONTROL NUMBER—1/217687 ACTION—ACCEPTED		
Mark Pilla, Community Medical Center, 99 Highway, 37 West, Toms River, NJ 08755, 908–240–8007	NJ	02/28/95
ETA CONTROL NUMBER—1/217722 ACTION—ACCEPTED		
Michael Tenenbaum, Resort Nursing Home, 430 Beach 68th Street, Rockaway Beach, NY 11692, 718–474–5200	NY	02/28/95
ETA CONTROL NUMBER—1/217724 ACTION—ACCEPTED		
ETA REGION 10 02/06/95 to 02/12/95		
Regina Martiner, Parker Community Hospital, 1200 Mahave Road, P.O. Box 1149, Parker, AZ 85344, 602–669–7306.	AZ	02/09/95
ETA CONTROL NUMBER—10/206364 ACTION—ACCEPTED		
Barbara Garner, Burlingame, 1100 Trousdale Drive, Burlingame, CA 94010, 714–544–4443	CA	02/09/95
ETA CONTROL NUMBER—10/206370 ACTION—ACCEPTED		
Patricia Smith, Chapman-Harbor Skilled Nursing Ctr., 12232 Chapman Avenue, Garden Grove, CA 92640, 714–971–5517.	CA	02/10/95
ETA CONTROL NUMBER—10/206361 ACTION—ACCEPTED		
Barbara Garner, Garfield, 7781 Garfield Avenue, Huntington Beach, CA 92648, 714–544–4443	CA	02/09/95
ETA CONTROL NUMBER—10/206368 ACTION—ACCEPTED		
Barbara Garner, Huntington Valley, 8361 Newman Avenue, Huntington Beach, CA 92647, 714–544–4443	CA	02/09/95
ETA CONTROL NUMBER—10/206367 ACTION—ACCEPTED		
Wilfredo L. Gabriel, Intercontinental Nursing Services, 1971 Cantamar Road, San Diego, CA 92154, 619–278–4197	CA	02/09/95

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued

[Form ETA–9029]

CEO-Name/Facility name/Address	State	Action date
ETA CONTROL NUMBER—10/206359 ACTION—ACCEPTED		
Barbara Garner, Park Central, 2100 Parkside Drive, Fremont, CA 94536, 714–544–4443	CA	02/09/95
ETA CONTROL NUMBER—10/206366 ACTION—ACCEPTED		
June Hernandez, Park Imperial Convalescent Hospital, 15100 South Prairie Avenue, Lawndale, CA 90260, 310–328–0812.	CA	02/09/95
ETA CONTROL NUMBER—10/206440 ACTION—ACCEPTED		
Pacita M. Cabacab, PMC Health Care Recruiting Agency, 2714 East Washington Street, Fresno, CA 93701, 209–498–6364.	CA	02/10/95
ETA CONTROL NUMBER—10/206442 ACTION—ACCEPTED		
Pacita Pinero, Ramona Home Health Inc., 5505 East Carson Suite 205, Lakewood, CA 90713, 310–496–1229	CA	02/09/95
ETA CONTROL NUMBER—10/206365 ACTION—ACCEPTED		
Bernice Schrabeck, South Gate Care Center, Inc., 8455 State Street, South Gate, CA 90280, 213–564–7761	CA	02/09/95
ETA CONTROL NUMBER—10/206271 ACTION—ACCEPTED		
Pamela Gentzsch, St. Mary Desert Valley Hospital, 18300 Highway 18, Apple Valley, CA 92307, 619–242–2311	CA	02/10/95
ETA CONTROL NUMBER—10/206363 ACTION—ACCEPTED		
Andy Embuido, US Lifeline Nursing Facility, 8033 Los Sabalos Street, San Diego, CA 92126–1154, 619–549–3505 .	CA	02/09/95
ETA CONTROL NUMBER—10/206262 ACTION—ACCEPTED		
Barbara Garner, Washington Manor, 14766 Washington Avenue, San Leandro, CA 94578, 714–544–4443	CA	02/09/95
ETA CONTROL NUMBER—10/206369 ACTION—ACCEPTED		
ETA REGION 10 02/13/95 to 02/19/95		
Lulu Cabagay, Banning Health Care, 3476 West Wilson, Banning, CA 92220, 909–849–0972	CA	02/13/95
ETA CONTROL NUMBER—10/206501 ACTION—ACCEPTED		
Lynn Nolan, InCare Health Services, 6540 Lusk Boulevard Suite C–200, San Diego, CA 92121, 619–450–4747	CA	02/13/95
ETA CONTROL NUMBER—10/206441 ACTION—ACCEPTED		
Kayce H.R. Hudson, Irvine Medical Center, 16200 Sand Canyon Avenue, Irvine, CA 92718, 714–753–2114	CA	02/13/95
ETA CONTROL NUMBER—10/206444 ACTION—ACCEPTED		
Stephen W. Hooker, Live Oak Living Center, 2150 Pyramid Drive, Richmond, CA 94803, 510–222–1242	CA	02/13/95
ETA CONTROL NUMBER—10/206564 ACTION—ACCEPTED		
Gerald L. Price, Royal Care Convalescent Hospital, 2725 Pacific Avenue, Long Beach, CA 90806, 310–427–7494 ...	CA	02/13/95
ETA CONTROL NUMBER—10/206523 ACTION—ACCEPTED		
Jaime M. Recabo, Staffing Specialists, Inc., 347–D Gellert Boulevard, Daly City, CA 94015, 914–337–0703	CA	02/13/95
ETA CONTROL NUMBER—10/206562 ACTION—ACCEPTED		
Wen P. Javier, WPJ Health Care Consultant, 849 Lehigh Avenue, Chula Vista, CA 91913–2714, 619–421–1526	CA	02/13/95
ETA CONTROL NUMBER—10/206502 ACTION—ACCEPTED		
ETA REGION 10 02/20/95 to 02/26/95		
Remy Tibayan, Fruitvale Health Care Center, 3020 East 15th Street, Oakland, CA 94601, 510–261–5613	CA	02/23/95
ETA CONTROL NUMBER—10/206316 ACTION—ACCEPTED		
Linda Morgan, Patton State Hospital, 3102 East Highland Avenue, Patton, CA 92369, 909–425–7541	CA	02/24/95
ETA CONTROL NUMBER—10/206443 ACTION—ACCEPTED		
Randy Bloom, Villa Rancho Bernardo, 15720 Bernardo Center Drive, San Diego, CA 92127, 619–672–3900	CA	02/22/95
ETA CONTROL NUMBER—10/206315 ACTION—ACCEPTED		
ETA REGION 10 02/27/95 to 03/05/95		
Lydia L. Ramirez, Golden Haven, 2324 Lever Boulevard, Stockton, CA 95206, 209–464–4743	CA	02/27/95
ETA CONTROL NUMBER—10/206500 ACTION—ACCEPTED		
B. Sanchez, Marian Health Careers Center, 3325 Wilshire Boulevard Suite 1213, Los Angeles, CA 90010, 213–388–3566.	CA	02/27/95
ETA CONTROL NUMBER—10/206503 ACTION—ACCEPTED		
Mildred M. Bondoc, Professional Staffing Services, 3812 Pierce Plaza Suite H, Riverside, CA 92503, 909–343–1987	CA	02/27/95
ETA CONTROL NUMBER—10/206389 ACTION—ACCEPTED		
ETA REGION 5 02/13/95 to 02/19/95		
Eva A. Washington, District of Columbia General Hosp., 1900 Massachusetts Avenue, S.E., Anne Archbold Hall—Room 141, Washington, DC 20003, 202–675–5039.	DC	02/13/95
ETA CONTROL NUMBER—5/237036 ACTION—ACCEPTED		
Howard D. Geller, Garden View Home, 6450 N. Ridge Avenue, Chicago, IL 60626, 312–743–8700	IL	02/14/95
ETA CONTROL NUMBER—5/237074 ACTION—ACCEPTED		
Michelle Keen, Lake Cook Terrace Nursing Home, 222 Dennis Drive, Northbrook, IL 60062, 708–564–0505	IL	02/13/95
ETA CONTROL NUMBER—5/237040 ACTION—ACCEPTED		
Ann Tucker, Nurse Providers Health Care Svcs., 18350 Kedzie, Suite 101, Homewood, IL 60430, 708–798–7880	IL	02/13/95
ETA CONTROL NUMBER—5/237038 ACTION—ACCEPTED		
John Schlofrock, Sharon Health Care Elms, 3611 N. Rochelle Lane, Peori, IL 61604, 309–685–8800	IL	02/14/95

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued

[Form ETA–9029]

CEO-Name/Facility name/Address	State	Action date
ETA CONTROL NUMBER—5/237051 ACTION—ACCEPTED		
John Schlofrock, Sharon Health Care Pines, 3614 N. Rochelle Lane, Peoria, IL 61604, 309–685–8800	IL	02/14/95
ETA CONTROL NUMBER—5/237053 ACTION—ACCEPTED		
Mary Dockerty, Jordan's Nursing Home, P.O. Box 607, Bridgman, MI 49106, 616–465–3017	MI	02/14/95
ETA CONTROL NUMBER—5/237092 ACTION—ACCEPTED		
Terry Kiplinger, Correctional Medical Services, 12647 Olive Street, St. Louis, MO 63141, 800–325–4809	MO	02/14/95
ETA CONTROL NUMBER—5/237069 ACTION—ACCEPTED		
Evelyn Quintos, Rehab Network Incorporated, 3022 S. National Suites 308 and 312, Springfield, Mo 65804, 417–886–1123.	MO	02/13/95
ETA CONTROL NUMBER—5/237035 ACTION—ACCEPTED		
Dorothy B. Caldwell, Sentara Life Care Corp., 249 S. Newton Road, Norfolk, VA 23502, 804–461–3333	VA	02/14/95
ETA CONTROL NUMBER—5/237060 ACTION—ACCEPTED		
ETA REGION 5 02/20/95 to 02/26/95		
JoAnn Birdzell, St. Elizabeth's Hospital, 1431 N. Claremont Ave., Chicago, IL 60622, 312–633–5917	IL	02/24/95
ETA CONTROL NUMBER—5/237551 ACTION—ACCEPTED		
Linda Funds, Beverly Hills Nursing Center, Inc., 3030 Greenfield Rd., Royal Oak, MI 48073, 810–288–6610	MI	02/23/95
ETA CONTROL NUMBER—5/237487 ACTION—ACCEPTED		
ETA REGION 5 02/27/95 to 03/05/95		
John P. Yeros, Nurse Source Health Care Services, 360 S. Garfield St., Suite #660, Denver, CO 80209, 303–394–2900.	CO	03/02/95
ETA CONTROL NUMBER—5/237840 ACTION—ACCEPTED		
Anthony R. Miner, Golfview Developmental Center, 9555 West Golf Road, Des Plaines, IL 60016, 708–827–6628	IL	03/03/95
ETA CONTROL NUMBER—5/237912 ACTION—ACCEPTED		
William A. Labra, Governors Park Nursing & Rehab Ctr., 1420 South Barrington Road, Barrington, IL 60010, 708–382–6664.	IL	03/03/95
ETA CONTROL NUMBER—5/237914 ACTION—ACCEPTED		
Arthur Bunag, Sterling Hope Placement Agency, 7542 N. Oakley, Chicago, IL 60645, 312–478–8862	IL	03/02/95
ETA CONTROL NUMBER—5/237842 ACTION—ACCEPTED		
Richard Shillcutt, Crystal Park Care Center, 16600 West 126th Street, Olathe, KS 66062, 913–764–0331	KS	02/27/95
ETA CONTROL NUMBER—5/237557 ACTION—ACCEPTED		
Marianne Athen, El Shaiddai Health Care, Inc., 7600 Clays Lane, Baltimore, MD 21224, 410–298–9800	MD	03/02/95
ETA CONTROL NUMBER—5/237841 ACTION—ACCEPTED		
Richard Young, Detroit Riverview Hospital, ATTN: Karen Krolicki, 7733 East Jefferson Avenue, Detroit, MI 48214–2598, 313–499–4930.	MI	03/03/95
ETA CONTROL NUMBER—5/237910 ACTION—ACCEPTED		
Joyce Stone, Deerbrook Healthcare, Inc., 724 N. East 79th Terrace, Kansas City, MO 64118, 816–436–8940	MO	02/27/95
ETA CONTROL NUMBER—5/237556 ACTION—ACCEPTED		
ETA REGION 6 02/06/95 to 02/12/95		
Ms. Margie B. Mills, First American Home Care, 206 Medical Center Drive, Clanton, AL 35045–2330, 205–755–9600	AL	02/07/95
ETA CONTROL NUMBER—6/224877 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 122 7th Ave., NE Suite E, Alabaster, AL 35007–8788, 205–663–1570.	AL	02/07/95
ETA CONTROL NUMBER—6/224878 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 101 Camille Place, Heflin, AL 36264, 205–463–2019	AL	02/07/95
ETA CONTROL NUMBER—6/224876 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 770 East Shaw Suite 300, Fresno, CA 93a710–7708, 209–244–6333.	CA	02/07/95
ETA CONTROL NUMBER—6/224875 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 15425–B Los Gatos Blvd. Suite 104, Los Gatos, CA 95350–1058, 408–358–8069.	CA	02/07/95
ETA CONTROL NUMBER—6/224872 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 355 Campus Dr. Suite D, Hanford, CA 93230–4374, 209–584–5555	CA	02/07/95
ETA CONTROL NUMBER—6/224873 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 9401 SW Highway 200 Building 100, Suite 102, Ocala, FL 34481–9610, 904–622–2100.	FL	02/09/95
ETA CONTROL NUMBER—6/224862 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 1004 North 14th Street Suite 106, Leesburg, FL 34748–3850, 904–787–3808.	FL	02/07/95
ETA CONTROL NUMBER—6/224863 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, First Florida Home Health 1680, Dunn Ave., Unit 24, Jacksonville, FL 32218,904–696–7880.	FL	02/07/95

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued
[Form ETA–9029]

CEO-Name/Facility name/Address	State	Action date
ETA CONTROL NUMBER—6/224868 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, First Florida Home Health 903 N. Stone Street, Deland, FL 32720–2521, 904–822–9796.	FL	02/07/95
ETA CONTROL NUMBER—6/224869 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 2509 Rio De Janeiro Ave. Deep Creek, Punta Gorda, FL 33983–8699, 813–625–8088.	FL	02/07/95
ETA CONTROL NUMBER—6/224870 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 587 SE Hwy. 19, Crystal River, FL 34429–4805, 904–795–8970	FL	02/07/95
ETA CONTROL NUMBER—6/224871 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 121–B La Grande Blvd., Lady Lake, FL 32159–1302, 813–646–7202.	FL	02/07/95
ETA CONTROL NUMBER—6/224864 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, First Florida Home Health 830 A1A, North, Suite 10B, Ponte Vedra Beach, FL 32082, 904–285–1884.	FL	02/07/95
ETA CONTROL NUMBER—6/224865 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, First Florida Home Health 3729, Phillips Hwy., Ste. 212, Jacksonville, FL 32207–8549, 904–399–3660.	FL	02/07/95
ETA CONTROL NUMBER—6/224866 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, First Florida Home Health 7764, Normandy Blvd., Ste. 19, Jacksonville, FL 32221–6692, 904–786–9733.	FL	02/07/95
ETA CONTROL NUMBER—6/224867 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 6436 U.S. Hwy. 27 South, Sebring, FL 33870–5735, 813–385–2600	FL	02/07/95
ETA CONTROL NUMBER—6/224861 ACTION—ACCEPTED		
Mr. Martin E. Casper, Greynolds Park Manor, Inc., 17400 West Dixie Highway, N. Miami Beach, FL 33160, 305–944–2361.	FL	02/08/95
ETA CONTROL NUMBER—6/225569 ACTION—ACCEPTED		
Ms. Margie B. Mills, ABC Home Health Services, Inc., 3528 Darien Highway, Brunswick, GA 31525, 912–264–1940	GA	02/09/95
ETA CONTROL NUMBER—6/224844 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 161 N. Macon Street P.O. Box 1331, Jessup, GA 30143–1906, 912–427–8580.	GA	02/07/95
ETA CONTROL NUMBER—6/224859 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 2054 Watson Blvd., Warner Robins, GA 31088, 912–923–9766	GA	02/07/95
ETA CONTROL NUMBER—6/224856 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 616 Ferncrest Drive, Sandersville, GA 21082–1348, 912–552–5085	GA	02/07/95
ETA CONTROL NUMBER—6/224857 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 3200 Riverside Drive Bldg. A, Suite 100, Macon, GA 31210–2250, 912–757–2240.	GA	02/07/95
ETA CONTROL NUMBER—6/224858 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, Hwy. 441 North P.O. Box 250, Helena, GA 31037–9617, 912–868–5616.	GA	02/07/95
ETA CONTROL NUMBER—6/224860 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 239–2000 N. Jebavy Drive Building B, Ludington, MI 48431–1921, 616–843–4288.	MI	02/07/95
ETA CONTROL NUMBER—6/224855 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 850 N. Center Street, Gaylord, MI 49735, 517–732–2680	MI	02/07/95
ETA CONTROL NUMBER—6/224853 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 3118 Logan Valley Rd., Traverse City, MI 49684, 616–935–3045	MI	02/07/95
ETA CONTROL NUMBER—6/224854 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 6605 Uptown Blvd., NE Suite 280, Albuquerque, NM 87110–4200, 505–880–1221.	NM	02/07/95
ETA CONTROL NUMBER—6/224852 ACTION—ACCEPTED		
Ms. Margie B. Mills, ABC Home Health Services Inc., 201 Broadway, Hartsville, TN 37074–1303, 615–374–4755	TN	02/09/95
ETA CONTROL NUMBER—6/224851 ACTION—ACCEPTED		
Ms. Margie B. Mills, ABC Home Health Services Inc., 20 Rhea St., Sparta, TN 38583–2040, 615–836–6200	TN	02/09/95
ETA CONTROL NUMBER—6/224849 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 205 Oak Park, Suite 3, McMinnville, TN 37110–1336, 615–473–9561.	TN	02/07/95
ETA CONTROL NUMBER—6/224850 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 6011 Trotwood Ave., Columbia, TN 38401–5087, 615–381–6296	TN	02/07/95
ETA CONTROL NUMBER—6/224847 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 4589 Rhea Co. Hwy. Suite 100, Dayton, TN 37321–6013, 615–775–1334.	TN	02/07/95
ETA CONTROL NUMBER—6/224848 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 110 Medical Drive, Victoria, TX 77904, 512–572–4061	TX	02/07/95
ETA CONTROL NUMBER—6/224845 ACTION—ACCEPTED		
Ms. Margie B. Mills, First American Home Care, 5152 N. 10th Street, McAllen, TX 78504–2834, 210–664–0055	TX	02/07/95

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued

[Form ETA–9029]

CEO-Name/Facility name/Address	State	Action date
ETA CONTROL NUMBER—6/224846 ACTION—ACCEPTED		
ETA REGION 6 02/13/95 to 02/19/95		
Mr. Ralph Aleman, Cedars Medical Center, 1400 NW 12th Avenue, Miami, FL 33136, 305–325–4991 ..... ETA CONTROL NUMBER—6/225154 ACTION—ACCEPTED	FL	02/16/95
Ms. Roberta Agner, Madison County Memorial Hospital, 201 East Marion Street, Madison, FL 32350, 904–973–2271 ETA CONTROL NUMBER—6/225301 ACTION—ACCEPTED	FL	02/16/95
Mr. Edward J. Renford, Grady Health System, 80 Butler Street, SE P.O. Box 26208, Atlanta, GA 30335–3801, 404–616–1900. ETA CONTROL NUMBER—6/225094 ACTION—ACCEPTED	GA	02/16/95
Mr. Scott Bell, Archusa Convalescent Center, 191 Highway 511 East Post Office, Drawer 10, Quitman, MS 39355, 601–776–2141. ETA CONTROL NUMBER—6/225300 ACTION—ACCEPTED	MS	02/16/95
Mr. Lewis T. Peeples, ParkView Regional Medical Center, 100 McAuley Drive, Vicksburg, MS 39180, 601–631–2131 ETA CONTROL NUMBER—6/225152 ACTION—ACCEPTED	MS	02/16/95
Sr. Paola Canziani, Casa Angelica, 5629 Isleta Blvd. SW., Albuquerque, NM 87105, 505–877–5763 ..... ETA CONTROL NUMBER—6/225303 ACTION—ACCEPTED	NM	02/17/95
Mr. Eduardo Duarte, Lavida Serena, 711 Kings Way Blvd., Del Rio, TX 78840, 210–774–0698 ..... ETA CONTROL NUMBER—6/225095 ACTION—ACCEPTED	TX	02/16/95
Mr. Harvey L. Fishero, Navarro Memorial Hospital, Inc., 3201 W. Highway 22, Corsicana, TX 75110, 903–872–4861 ETA CONTROL NUMBER—6/225302 ACTION—ACCEPTED	TX	02/17/95
Ms. Thalia H. Munoz, Starr County Memorial Hospital, P.O. Box 78, Rio Grande City, TX 78582, 210–487–5561 ..... ETA CONTROL NUMBER—6/225093 ACTION—ACCEPTED	TX	02/17/95
ETA REGION 6 02/20/95 to 02/26/95		
Ms. Cheryl Woods, Winter Garden Health Care, 15204 West Colonial Drive, Winter Garden, FL 34787, 407–877–2394. ETA CONTROL NUMBER—6/225406 ACTION—ACCEPTED	FL	02/22/95
Mr. Gary Morse, Tyler Holmes Memorial Hospital, 409 Tyler Holmes Drive, Winona, MI 38967, 601–283–4114 ..... ETA CONTROL NUMBER—6/225328 ACTION—ACCEPTED	MI	02/22/95
Mr. Robert Hill, Britthaven of Davidson, 706 Pineywood Road, Thomasville, NC 27360, 919–475–9116 ..... ETA CONTROL NUMBER—6/225380 ACTION—ACCEPTED	NC	02/22/95
Mr. Don Davidson, Advanced Care Center at Stephenville, 2309 W. Washington Street, Stephenville, TX 76401, 817–968–4191. ETA CONTROL NUMBER—6/225377 ACTION—ACCEPTED	TX	02/22/95
Mr. Don Davidson, Advanced Care Center at Tyler, 2902 FM 2767 East, Tyler, TX 75702, 803–592–5684 ..... ETA CONTROL NUMBER—6/225379 ACTION—ACCEPTED	TX	02/23/95
Mr. Don Davidson, Advanced Care Ctr. of Amer/Pro-Care, 3508 Milan Street, Houston, TX 77002, 713–628–3071 ... ETA CONTROL NUMBER—6/225378 ACTION—ACCEPTED	TX	02/22/95
Mr. Samuel A. Ramirez, Sr., Dolly Vinsant Memorial Hospital, 400 East Hwy 77, San Benito, TX 78586, 210–399–1313. ETA CONTROL NUMBER—6/225403 ACTION—ACCEPTED	TX	02/22/95
Ms. Lois Jean Moore, Harris County Hospital District, 2525 Holly Hall, Houston, TX 77054, 713–746–6495 ..... ETA CONTROL NUMBER—6/225381 ACTION—ACCEPTED	TX	02/22/95
Ms. Jolyn West Scheirman, JWS Health Consultants, Inc., 3730 Kirby Drive Suite 900, Houston, TX 77098, 713–522–5355. ETA CONTROL NUMBER—6/225404 ACTION—ACCEPTED	TX	02/22/95
Ms. Toni Parks, Memorial Medical Nursing Center, 315 Lewis, SW., San Antonio, TX 78212, 210–223–5521 ..... ETA CONTROL NUMBER—6/225402 ACTION—ACCEPTED	TX	02/22/95
Mr. William D. Poteet, III, Methodist Hospital, 3615 19th Street, Lubbock, TX 79410, 806–792–1011 ..... ETA CONTROL NUMBER—6/225375 ACTION—ACCEPTED	TX	02/22/95
Ms. Maria A. Malacon, Omni Health Services, 2600 N. Gessner Suite 280, Houston, TX 77080, 713–690–1971 ..... ETA CONTROL NUMBER—6/225405 ACTION—ACCEPTED	TX	02/22/95
Mr. Rod Seidel, San Jacinto Methodist Hospital, 4401 Garth Road, Baytown, TX 77521, 713–420–8690 ..... ETA CONTROL NUMBER—6/225374 ACTION—ACCEPTED	TX	02/23/95
ETA REGION 6 02/27/95 to 03/05/95		
Mr. John Botsko, CPC Fort Lauderdale Hospital, 1601 E. Las Olas Blvd., Fort Lauderdale, FL 33301, 305–463–4321 ETA CONTROL NUMBER—6/225605 ACTION—ACCEPTED	FL	03/03/95
Leon Metz, IHS-Venice North, 1970 Landings Blvd., Ste. 201, Sarasota, FL 34231, 800–743–2575 ..... ETA CONTROL NUMBER—6/225598 ACTION—ACCEPTED	FL	03/03/95
Mr. William A. McDonald, Miami Children's Hospital, 3100 S. W. 62nd Avenue, Miami, FL 33155, 305–666–6511 ..... ETA CONTROL NUMBER—6/225570 ACTION—ACCEPTED	FL	03/03/95
Mr. Rafael Fonseca, West Gables Health Care Center, HSI, Inc. 163 Stratford Ct., Suite 205, Winston-Salem, NC 27103, 305–265–9391.	NC	03/03/95

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued
[Form ETA–9029]

CEO-Name/Facility name/Address	State	Action date
ETA CONTROL NUMBER—6/225572 ACTION—ACCEPTED		
Ms. Alecia Bristow, IHS of Nashville, 2733 McCampbell Road, Nashville, TN 37214, 615–885–0483	TN	03/02/95
ETA CONTROL NUMBER—6/225532 ACTION—ACCEPTED		
Ms. Julie Martinez, Canterbury Villa of Eagle Pass, 2550 Zacatecas, Eagle Pass, TX 78852, 210–773–4488	TX	03/02/95
ETA CONTROL NUMBER—6/225530 ACTION—ACCEPTED		
Donald R. Cain, Cartwheel Lodge of Gonzales, 1800 Cartwheel Drive, Gonzales, TX 78629, 210–672–2887	TX	03/03/95
ETA CONTROL NUMBER—6/225600 ACTION—ACCEPTED		
Ms. Peggy Brisgill, Colonial Manor Care Center, 821 Hwy 81 West, New Braunfels, TX 78130, 210–625–7526	TX	03/03/95
ETA CONTROL NUMBER—6/225602 ACTION—ACCEPTED		
Mr. Ernest Flores, Jr., Dimmit County Memorial Hospital, P.O. Box 1016, Carrizo Springs, TX 78834, 210–876–2424	TX	03/02/95
ETA CONTROL NUMBER—6/225535 ACTION—ACCEPTED		
Chris Callahan, Monument Hill Nursing Center, 120 Star Loop 92, LaGrange, TX 78945, 410–968–3144	TX	03/03/95
ETA CONTROL NUMBER—6/225601 ACTION—ACCEPTED		
Mr. David Nesbit, Nesbit Nursing Home, 1215 Ashby, Sequin, TX 78155, 210–379–1606	TX	03/03/95
ETA CONTROL NUMBER—6/225603 ACTION—ACCEPTED		
Harvin E Saggs, Southern Manor, Highway 90A West, Hallettsville, TX 77964, 512–798–3268	TX	03/03/95
ETA CONTROL NUMBER—6/225599 ACTION—ACCEPTED		
Ms. Donna Grayson, Town and Country Manor, 625 N. Main, Boerne, TX 78006, 210–249–3085	TX	03/03/95
ETA CONTROL NUMBER—6/225604 ACTION—ACCEPTED		

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BILLING CODE 4510–30–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 94–3 CARP–CD90–92]

Distribution of 1990, 1991 and 1992 Cable Royalty Funds

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of consolidation of proceedings, request for notices of intent to participate, and precontroversy discovery schedule.

SUMMARY: The Copyright Office of the Library of Congress is consolidating the distribution of the 1990, 1991 and 1992 cable royalty funds into a single proceeding. Accordingly, the Office is requesting that claimants to the 1991 and 1992 royalty funds file a Notice of Intent to Participate in the distribution proceeding for those funds, if they have not already done so. The Office is also setting the prehearing schedule for the 1990–1992 distribution proceeding, including the date on which controversies will be declared and arbitration initiated.

DATES: Notices of Intent to Participate are due April 5, 1995.

ADDRESSES: If sent by mail, an original and five copies of the Notice of Intent to Participate should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, an original and five copies of the Notice of Intent to Participate should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room 407, First and Independence Avenue, S.E. Washington, DC 20540.

FOR FURTHER INFORMATION CONTACT: William Roberts, Senior Attorney, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington DC 20024. Telephone (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

Each year, cable systems submit royalties to the U.S. Copyright Office for a statutory license to retransmit broadcast signals to their subscribers. 17 U.S.C. 111. These royalties are, in turn, distributed to the appropriate copyright owners by means of a cable royalty distribution proceeding. These proceedings were formerly conducted by the Copyright Royalty Tribunal. However, on December 17, 1993, the Tribunal was abolished. Royalty distribution proceedings are now conducted by *ad hoc* copyright arbitration royalty panels (CARPs) convened and supported by the Library of Congress and the Copyright Office. Copyright Royalty Tribunal Reform Act of 1993, P.L. 103–198, 107 Stat. 2304 (1993).

At the time Congress was considering the abolition of the Tribunal, the Tribunal had already begun a proceeding to distribute the cable royalties that were collected in 1990. The 1990 cable royalty distribution proceedings began on April 2, 1993. 58 FR 17387 (April 2, 1993). The proceeding did not, however, reach a conclusion. In light of the imminent passage of the Copyright Royalty Tribunal Reform Act, the Tribunal suspended the 1990 cable royalty distribution proceeding. Order, CRT Docket No. 92–1–90CD (October 14, 1993).

The Copyright Royalty Tribunal Reform Act, which was effective immediately upon enactment, directed the Librarian and the Copyright Office to adopt the rules and regulations of the Tribunal found in 37 CFR chapter 3, 17 U.S.C. 802(d), and provided that the Tribunal's regulations were to remain in effect until the Librarian adopts ''supplemental or superseding regulations.'' The Office adopted the Tribunal's rules and regulations on an interim basis on December 22, 1993, and notified the public that it intended to begin a rulemaking proceeding to revise and update those rules. 58 FR 67690 (December 22, 1993). In one of the first decisions in that rulemaking, we considered the question of how to handle proceedings that were suspended because of the abolition of the Tribunal. The Office determined that matters left pending at the Tribunal would not be taken up where they had been left off, but would have to be begun anew. 59 FR 2550 (January 18, 1994). The 1990 cable distribution would, therefore, start over from the beginning.

We met with the cable copyright claimants on August 11, 1994 and were informed that they preferred to restart the 1990 cable distribution proceeding only after final regulations for the

CARPs were adopted and in place. The Office honored this request and, on December 7, 1994, published final regulations governing the conduct of royalty distribution and rate adjustment proceedings prescribed by the Copyright Royalty Tribunal Reform Act of 1993. 59 FR 63025 (December 7, 1994).

Cable royalties for the 1990, 1991, 1992 and 1993 account years are now eligible for distribution proceedings. A partial distribution of ninety percent of the 1990 and 1991 royalties was made by the Tribunal prior to its termination, and the Copyright Office has made a partial distribution of eighty percent of the 1992 and 1993 royalty funds. *See*, Distribution Order, CRT Docket No. 92–1–90CD, 57 FR 41478 (September 10, 1992) (1990 royalties); Distribution Order, CRT Docket No. 93–4–91CD (October 6, 1993) (1991 royalties); *Order*, Docket Nos. 94 CARP (92–CD) and 94 CARP (93–CD) (September 26, 1994) (1992 and 1993 royalties).

II. Request for Comments on Controversy

On December 15, 1994, the Copyright Office of the Library of Congress published a notice seeking comment as to the existence of controversies among claimants to the 1990 cable royalty fund. 59 FR 64714 (December 15, 1994). We also requested interested claimants to file a Notice of Intent to Participate in the 1990 cable distribution proceeding.

In addition to seeking comments regarding 1990 royalty fund controversies, we solicited comments as to whether the distribution of 1990 cable royalties should be consolidated with other cable royalty funds collected in subsequent years. 59 FR 64715 (1994). The 1991, 1992 and 1993 royalty funds are ready for distribution and could be made a part of the 1990 proceeding, if that would serve the public interest. If the claimants favored a consolidation, we sought comment as to the existence of controversies in those subsequent years. We also stated that if we did consolidate the 1990 cable distribution with one or more subsequent years, we would issue a request at that time for Notices of Intent to Participate for those subsequent years. 59 FR 64715.

The Comments

The Office received comments from the following claimant groups: Program Suppliers, Joint Sports Claimants (consisting of the Office of the Commissioner of Baseball, the National Basketball Association, the National Hockey League and the National Collegiate Athletic Association), National Association of Broadcasters (NAB), Canadian Claimants, Devotional Claimants, Music Claimants (consisting of the American Society of Composers, Authors and Publishers; Broadcast Music, Inc.; and SESAC, Inc.), The Public Broadcasting Service (PBS), National Public Radio (NPR) and Multimedia Entertainment, Inc. (Multimedia). In addition to individual comments from these groups, the Office received a comment, styled ''Joint Comments of Copyright Owners'' (Copyright Owners), that expresses the collective opinion of all of the above listed claimant groups.

Discussion of the Comments

The Copyright Owners identify existence of both Phase I and Phase II controversies for the 1990 cable distribution, and identify the existence of a Phase I controversy for the 1991 and 1992 royalty funds. They request a consolidation of the 1991 and 1992 distribution with the 1990 proceeding, and propose a detailed schedule for the 45-day precontroversy discovery period. The Copyright Owners are not, however, in agreement as to when the precontroversy discovery period, and the initiation of arbitration, should begin.

A. *Existence of Controversies.* Copyright Owners state that a controversy exists as to the Phase I allocation of the 1990 cable royalty fund. Copyright Owners, comments at 1–2. The Phase I parties agreed to settle the 1990 royalty claims of NPR, the Canadian Claimants and the Music Claimants. These settlements were approved by the Copyright Royalty Tribunal during the aborted 1990 cable distribution proceeding; therefore, no controversy exists with respect to the shares of the 1990 cable royalty fund for NPR, Canadian Claimants, and Music Claimants. *See* in CRT Docket No. 92–1–90CD: ''Distribution Order'' (dated March 29, 1993) (NPR); ''Distribution Order'' (dated July 27, 1993) (Canadian Claimants); and ''Order'' (dated August 16, 1993) (Music Claimants).

Copyright Owners also identify the existence of a controversy for the Phase I allocation of the 1991 and the 1992 cable royalties. *Id.* at 2. Although there is a possibility that some of the claimants will reach a Phase I settlement, hearings before a CARP will nevertheless be required. *Id.*

With respect to Phase II controversies, Copyright Owners ask that the Copyright Office schedule them after resolution of all Phase I controversies, and then conduct all Phase II proceedings concurrently. *Id.* at 3. Music Claimants urge that a separate CARP panel be convened to conduct each Phase II hearing. Music Claimants, comments at 7.

Multimedia and NAB report the existence of Phase II controversies for the 1990 cable fund. Multimedia, comments at 1; NAB, comments at 1–2. Several other commentators, including Program Supplier and Joint Sports Claimants, report that they are currently unaware of any Phase II controversies for the 1990 fund, but reserve the right to participate in such controversies should they arise. *See* Program Suppliers, comments at 1–2; Joint Sports Claimants, comments at 2. *See also* Canadian Claimants, comments at 2; Music Claimants, comments at 3–4; Devotional Claimants, comments at 1. None of the commentators are aware of any Phase II controversies at this time for the 1991 and 1992 cable royalty funds; however, they express an intention to participate in any Phase II controversies should they arise. *See e.g.* Program Suppliers, comments at 2; Music Claimants, comments at 5–6; Devotional Claimants, comments at 1.

B. *Consolidation of Proceedings.* Copyright Owners request that the 1990, 1991, and 1992 distribution proceedings be consolidated into a single proceeding. Copyright Owners, comments at 2. They state that consolidation is necessary to reduce the existing backlog in distribution proceedings, created by the elimination of the Copyright Royalty Tribunal, and that a proceeding which covers no more than three years would be manageable and cost effective for the parties and the CARP. *Id.* Copyright Owners do not, however, express any opinion as to the advisability of consolidating subsequent royalty funds (1993, 1994, etc.) into a single proceeding. *Id.* at 2–3.

NAB supports consolidation of the 1990, 1991, and 1992 cable funds into a single proceeding, but only if the procedural dates and schedule proposed by Joint Sports Claimants is followed. *See* discussion, *infra.*

C. *Prehearing Schedule.* Copyright Owners urge the Copyright Office to adopt a detailed prehearing scheduling order which addresses the following matters.

1. Scheduling of proceeding. Section 251.45(b)(1) prescribes a 45-day precontroversy discovery period for the handling of discovery and pre-arbitration matters. Copyright Owners propose that the Copyright Office adopt specific deadlines for the following procedural steps to take place within those 45 days:

Exchange of Written Direct Cases
Requests for Underlying Documents Related to Written Direct Cases

Responses to Requests for Underlying Documents
Completion of Document Production
Follow-up Requests for Underlying Documents
Responses to Follow-up Requests
Motions Related to Document Production to Date
Production of Documents In Response to Follow-Up Requests
All Other Motions, Petitions and Objections

Copyright Owners, comments at 4. In addition, Program Suppliers urge that parties should be free to file motions, particularly on discovery disputes, at any time up to the established deadline. The Librarian could then address each motion on an ad hoc basis, thereby expediting the decisionmaking process. Program Suppliers, comments at 4.

2. Nature and scope of precontroversy discovery. Copyright Owners note that the rules describe the nature and scope of discovery permitted by a CARP, § 251.45(c), but do not articulate any standard for precontroversy discovery. They therefore recommend that the same standard in § 251.45(c) apply to the precontroversy discovery period, which would allow the parties to ''request of an opposing party nonprivileged underlying documents related to the written exhibits and testimony.'' Copyright Owners, comments at 5.

3. Discovery and motions before the CARP. Copyright Owners voice concern that § 251.45(c) requires the CARP to establish a discovery period following the submission of rebuttal and direct cases. They believe that allowing additional discovery on direct cases would be counterproductive to the purpose of the precontroversy discovery period, and that a CARP should only allow additional direct case discovery upon a showing of good cause. Copyright Owners, comments at 5–6. Thus, all discovery requests that can be made during the precontroversy discovery period, and all motions and objections contemplated by § 251.45(b), must be made at that time. *Id.*

4. Manner of service. Because of what they view as a limited precontroversy discovery period, Copyright Owners recommend that service of all discovery requests and responses to such requests be by hand or fax on the party to whom the request or response is directed. Likewise, they propose that all motions and responses filed during the precontroversy discovery period be served by means no slower that overnight express mail. Copyright Owners, comments at 6.

5. Start of evidentiary hearings. Copyright Owners request that a ''sufficient'' time period be allowed from issuance of all precontroversy discovery rulings by the Copyright Office and the start of the 180-day arbitration period. Copyright Owners, comments at 6–7.

D. *Commencement of Proceedings.* The commentators disagree as to when the precontroversy discovery period should begin and, consequently, when arbitration should be initiated. A majority of the commentators support the proposal of Joint Sports Claimants, who propose commencement of precontroversy discovery on August 18, 1995, and initiation of arbitration on October 30, 1995. Program Suppliers urge that precontroversy discovery begin on March 31, 1995, with the 180-day arbitration period starting on June 7, 1995. Music Claimants do not endorse either position, but do not believe that precontroversy discovery should begin any time before ''mid-May.'' NPR takes a similar approach, favoring a June start.

1. Program Suppliers proposal. Program Suppliers argue that an immediate start to the 1990 cable distribution proceeding is necessary to reduce the backlog of cable and satellite distributions and rate adjustments created by the elimination of the Copyright Royalty Tribunal. Program Suppliers, comments at 2. There have been no compulsory license hearings since the fall of 1993, and a number of proceedings are or will be ripe for decision:

—All cable compulsory license distribution cases from 1990 forward;
—All satellite carrier compulsory license distribution cases from 1992 forward;
—The five-year cable royalty rate adjustment case under 17 U.S.C. 801(b)(2) (A) and (D) and 803(a)(2) must be filed during 1995; and
—The satellite carrier fee negotiation and arbitration under 17 U.S.C. 119(c) must begin on July 1, 1996 with initiation of arbitration no later than January 1, 1997.

Id. Program Suppliers concede that consolidation of the 1990, 1991, and 1992 cable distribution proceedings will help to reduce this backlog, but only a combination of consolidation and prompt scheduling of hearings will bring all matters up-to-date. *Id.* at 3.

Program Suppliers recommend that the 45-day precontroversy discovery period begin on March 31, 1995, and conclude on May 10, 1995. Arbitration would begin on June 7, 1995. *Id.* at 4–5. Program Suppliers argue that under this proposal, arbitration will be completed by December, thereby clearing the 1996 calendar for 1993 cable distribution, 1992 satellite distribution, and cable rate adjustment CARP proceedings, if necessary. Creating the scheduling possibility for two CARP hearings in 1996 by completing the 1990 cable distribution in 1995 ''would help considerably to relieve the backlog that will exist at that time.'' *Id.* at 3.

While Program Suppliers acknowledge that their proposed schedule is ambitious and will require hard work by the parties, they argue that it does not grant them any unfair advantage. They note that the Bortz study introduced by Joint Sports Claimants in the 1990 distribution proceeding before the Copyright Royalty Tribunal, the ''principal evidentiary presentation supported by all the parties in the 1990 hearing other than Program Suppliers,'' contained data for 1990, 1991 and 1992. Program Suppliers, however, have yet to receive their principal data, the Neilsen study, for those same years. *Id.* at 6.

In addition to proposing precontroversy discovery and arbitration starting dates, Program Suppliers recommend specific dates for all precontroversy procedural deadlines proposed in the comments of Copyright Owners:

Filing	Deadline
Written Direct Cases	Mar. 31, 1995.
Request for Underlying Document Related to Written Direct Cases.	Apr. 10, 1995.
Responses to Requests for Underlying Documents.	Apr. 14, 1995.
Completion of Document Production.	Apr. 20, 1995.
Follow-Up Document Requests, If Any.	Apr. 25, 1995.
Responses to Follow-Up Requests.	Apr. 28, 1995.
Motions Related to Document Production to Date.	May 2, 1995.
Completion of Document Production For Follow-Up Requests, If Any.	May 8, 1995.
All Other Motions, Petitions, and Objections.	May 10, 1995.
Commencement of the 180-day Period.	June 7, 1995.
Start of Evidentiary Hearing.	June 13, 1995.

Id. at 4–5. Program Suppliers envision that direct case hearings would be completed by August 4, and recommend that further hearings be suspended until at least September 6, 1995, during which time the parties would exchange rebuttal cases and conduct discovery of the rebuttal cases. *Id.* at 5. They further suggest that rebuttal hearings be completed by the end of September, and that proposed and reply findings of fact

and conclusions of law be briefed in October and early November so that ''the CARP decision could be issued by December 4, the last day of the 180-day period.'' *Id*.

2. Joint Sports Claimants proposal. Joint Sports Claimants argue that Program Suppliers proposed schedule does not permit sufficient preparation time for a consolidated 1990–92 proceeding, and strongly opposes any schedule that would begin precontroversy discovery prior to August 18, 1995. They submit that a consolidated 1990–92 proceeding will be the most complicated in which the parties have ever participated, and will be before arbitrators ''who, presumably, will be selected for their expertise in dispute resolution rather than familiarity with cable copyright issues.'' Joint Sports Claimants, comments at 3. Adequate preparation time is, therefore, needed ''to locate witnesses, to commission and to complete research and to prepare testimony and exhibits.'' *Id*. at 4. Joint Sports Claimants further note that Program Suppliers' concern with the current backlog of proceedings is adequately addressed by consolidating the 1991 and 1992 cable distribution with the 1990 proceeding. *Id*. at 5.

Joint Sports Claimants propose an August 18, 1995 start date for precontroversy discovery and an October 30, 1995 initiation of arbitration. They are supported in their commencement proposal by NAB, Devotional Claimants, Canadian Claimants and PBS. *See* NAB, comments at 3–4; Devotional Claimants, comments at 2; Canadian Claimants, comments at 1; PBS, comments at 1. Joint Sports Claimants recommend the following dates for the precontroversy discovery procedural deadline schedule proposed in the comments of the Copyright Owners:

Filing	Deadline
Written Direct Cases	Aug. 18, 1995.
Requests for Underlying Documents Related to Written Direct Cases.	Aug. 28, 1995.
Responses to Requests for Underlying Documents.	Sept. 1, 1995.
Completion of Document Production.	Sept. 8, 1995.
Follow-Up Requests for Underlying Documents.	Sept. 13, 1995.
Responses to Follow-Up Requests.	Sept. 18, 1995.
Motions Related to Document Production.	Sept. 20, 1995.
Production of Documents in Response to Follow-Up Requests.	Sept. 27, 1995.
All Other Motions, Petitions and Objections.	Oct. 2, 1995.
Commencement of 180-Day Period.	Oct. 30, 1995.

Id. at 2. Joint Sports Claimants do not make any scheduling proposals for the conduct of hearings before the CARP.

3. Music Claimants and NPR. Music Claimants and NPR do not endorse the scheduling proposals of either Program Suppliers or Joint Sports Claimants. Music Claimants request that precontroversy discovery begin no sooner than mid-May 1995 to allow adequate preparation time for the written direct cases. Music Claimants, comments at 7. NPR requests a starting date no earlier than June, with hearings commencing no sooner than September. NPR, comments at 4.

III. Consolidation of Proceedings, Notices of Intent to Participate, and Scheduling

Having fully considered the comments of the interested parties, the Copyright Office is consolidating the 1991 and 1992 cable royalty distribution with the 1990 distribution proceeding, and is requesting that interested parties, who have not already done so, file a Notice of Intent to Participate for the 1991 and 1992 distribution no later than April 5, 1995. The precontroversy discovery period will begin on August 18, 1995, and proceed according to the schedule described below.

Consolidation of Proceedings

The commentators report the existence of controversies for the 1990, 1991 and 1992 cable royalty funds and request that the Copyright Office consolidate distribution of these funds into a single proceeding. Although the 1993 royalty funds are available for distribution, the commentators do not favor consolidation of the 1993 funds. The Office believes that consolidation of the 1990, 1991 and 1992 royalties into a single distribution proceeding is manageable and cost effective, and that addition of the 1993 funds to the proceeding may be unduly burdensome. Consolidation of three funds itself represents an unprecedented distribution, and is a major step towards eliminating the existing backlog of copyright compulsory license proceedings. We are, therefore, consolidating the 1990–92 cable royalty funds for distribution, and will conduct a single proceeding necessary to the resolution of all controversies related to these funds.

By consolidating the 1990–92 distributions, the Office will handle Phase I and Phase II controversies in those funds sequentially. That is, we will first conduct a proceeding and convene a CARP to resolve all Phase I controversies for the 1990–92 funds, and, after that proceeding has been completed, we will ascertain the existence of any Phase II controversies and conduct separate proceedings. The issue of whether to convene separate CARPs for each Phase II controversy, or to allow a single CARP to resolve more than one controversy, will be decided at the time the Office determines the existence of Phase II controversies, if any.

Notices of Intent To Participate

The Copyright Office has received Notices of Intent to Participate from the parties wishing to participate in the CARP proceedings for the 1990 cable royalty distribution. The Office noted in the Notice requesting comments on the existence of cable distribution controversies that if it consolidated the 1990 cable distribution with one or more subsequent years it would then issue a request for Notices of Intent to Participate for those subsequent years. 59 FR 64714, 64715 (1994).

We are consolidating the 1991 and 1992 cable distribution with the 1990 proceeding. Therefore, those claimants who wish to present evidence to the CARPs for distribution of the 1991 and 1992 royalties must, if they have not already done so, file a Notice of Intent to Participate for those years. Notices must be filed no later than April 5, 1995. Failure to file a timely Notice of Intent to Participate may subject the claim to dismissal. The filing of a Notice of Intent to Participate is thus critical to a claimant being able to present an effective claim.

Scheduling of the 1990–92 Cable Distribution Proceeding

The Copyright Office is announcing the scheduling of the precontroversy discovery period, and other procedural matters, for the 1990–92 cable distribution proceeding. In addition, the Office is announcing the date on which the existence of controversies to the 1990–92 cable funds will be declared and arbitration initiated, thereby commencing the 180-day arbitration period. Once a CARP has been convened, the scheduling of the arbitration period is within the discretion of the CARP and will be announced at that time.

A. *Commencement of the Proceeding.* A royalty distribution proceeding under part 251 of 37 CFR is divided into two

essential phases. The first is the 45-day precontroversy discovery phase, during which the parties exchange their written direct cases, exchange their documentation and evidence in support of their written direct cases, and engage in the pre-CARP motions practice described in § 251.45. The other phase is the proceedings before a CARP itself, including the presentation of evidence through live hearings and the submission of proposed findings by all of the parties. Both of these phases to a distribution proceeding require significant amounts of work, not just for the parties, but for the Librarian, the Copyright Office and the arbitrators as well. Selection of a date to commence a distribution proceeding is, therefore, not dependent on the schedules of one or more of the participating parties, but must be weighed against the interests of all involved.

Because there are two phases to a distribution proceeding—precontroversy discovery and arbitration—there are two time periods to be scheduled. The regulations do not provide how much time must separate precontroversy discovery from initiation of arbitration. Program Suppliers and Joint Sports Claimants, in their proposed schedules, both recommended a period of 28 days from the end of precontroversy discovery to the beginning of the 180-day arbitration period. *See* Program Suppliers, comments at 5; Joint Sports Claimants, comments at 2. The Copyright Office agrees that there is no reason to schedule an inordinate amount of time between the two; however, there must be adequate time for the Librarian to rule upon all motions filed within the 45-day precontroversy period. Since motions could, and undoubtedly will be filed on the last day of the period, a sufficient amount of time must be allowed to receive oppositions (7 days from filing of motion) and replies (5 business days from date of service of opposition), and to consider those motions and issue decisions and orders. Given these considerations, the uniqueness of cable distribution for the Office, and the complexities of the proceedings involving three years worth of royalties, we believe that a period of 45 days between the end of the precontroversy discovery period and the declaration of controversies/initiation of arbitration is necessary for the Office to adequately complete its task.

The issue remains as to what date precontroversy discovery should begin and, subsequently, initiation of arbitration. The commentators are divided. Program Suppliers believe that precontroversy discovery should begin at the end of March of this year to speed the reduction of royalty funds currently ripe for distribution, and to allow the scheduling of more than one CARP next year to handle distributions and/or rate adjustments. The remainder of the commentators argue that a March starting time is premature because it does not allow sufficient preparation time for what will be the first CARP proceeding. Music Claimants and NPR favor commencement in mid-May and early June, respectively. Joint Sports Claimants state that they are opposed to any schedule which begins the 1990–92 cable distribution proceeding prior to August 18, 1995. They are supported by Devotional Claimants, Canadian Claimants, PBS, and NAB, whose support for consolidation of the 1991 and 1992 funds with the 1990 distribution is contingent upon acceptance of Joint Sports Claimants' proposed schedule.

Because the commentators are so widely divided, the obvious compromise solution would be to split the difference in proposed starting dates. This would result in starting precontroversy discovery sometime in early June, which is NPR's proposal. However, in an open meeting of all parties filing Notices of Intent to Participate in the 1990 distribution held at the Copyright Office, the parties expressed strong opposition to any compromise position, and urged the Office to select one of the proposed schedules. Meeting, held February 6, 1995. We are complying with the parties wishes and are selecting a starting date of August 18, 1995 for the 45-day precontroversy period. The period will conclude on October 2, followed by a 45-day period in which the Librarian and the Copyright Office will complete all precontroversy discovery matters and issue all rulings. Controversies will be declared, and the 180-day arbitration period initiated, on November 17, 1995.

There are several reasons for selecting these dates. First, this is the first cable distribution proceeding under the new CARP regime and the parties should be afforded adequate time for preparation of their cases and evidence. A majority of the parties stated that they need until August 18 to allow them sufficient time to prepare. Second, a single distribution proceeding for three royalty years is unprecedented and represents a highly complex and involved proceeding. The difficulty of the proceeding will be further heightened by the fact that it is the first test of the new CARP regulations governing cable distribution. We, therefore believe that the parties should have optimal preparation time to increase the likelihood of a smooth and efficient proceeding. Third, the Office wishes to avoid any scheduling conflicts with distribution proceedings of the 1992–94 DART royalty funds. We are currently seeking comment as to the existence of controversies for these funds, which are eligible for distribution after March 30, 1995. While it is anticipated that distribution settlements will be reached for these funds, convocation of a CARP or CARPs may nevertheless be necessary. It would be extremely difficult for the Office to conduct precontroversy discovery for cable as well as DART at the same time. An August 18 commencement date for cable distribution allows the Office to schedule a prior, nonoverlapping precontroversy discovery period for 1992–94 DART distribution.

B. *Precontroversy Discovery Schedule and Procedures.* Any party filing a Notice of Intent to Participate in the 1990–92 cable distribution for one or more of the royalty funds is entitled to participate in the precontroversy discovery period. Each party may request of an opposing party nonprivileged underlying documents related to the opposing party's written direct case. The precontroversy discovery period is limited to discovery of documents related to written direct cases and any amendments made during the period.

Copyright Owners requested that the Copyright Office adopt a precontroversy discovery schedule that prescribes filing deadlines for discovery requests, responses and related motions. Because Copyright Owners believe their proposal is critical to an efficient and successful precontroversy discovery period, we will adopt it for purposes of this distribution proceeding.

The following is the precontroversy discovery procedural schedule with corresponding deadlines:

Action	Deadline
Filing of Written Direct Cases.	Aug. 18, 1995.
Requests for Underlying Documents Related to Written Direct Cases.	Aug. 28, 1995.
Responses to Requests for Underlying Documents.	Sept. 1, 1995.
Completion of Document Production.	Sept. 8, 1995.
Follow-Up Requests for Underlying Documents.	Sept. 13, 1995.
Responses to Follow-Up Requests.	Sept. 18, 1995.
Motions Related to Document Production.	Sept. 22, 1995.

Action	Deadline
Production of Documents in Response to Follow-Up Requests.	Sept. 27, 1995.
All Other Motions, Petitions and Objections.	Oct. 2, 1995.

The § 251.45(b) precontroversy discovery period begins on August 18, 1995 with the filing of written direct cases. Each party to the proceeding must serve by hand on that day a complete copy of its written direct case on each of the other parties to the proceeding, as well as file a complete copy with the Copyright Office.

After the filing of the written direct cases, document production will proceed according to the above-described schedule. Thus, the parties have until August 28 to request from one another Underlying Documents Related to Written Direct Cases, until September 1 to respond to Requests for Underlying Documents, and so forth. The dates listed in the schedule mark the deadlines by which the corresponding requests, responses and motions must be served and filed. In the case of document requests and all precontroversy discovery motions, failure to make a request or file a motion by the prescribed deadline precludes a party from making the request or filing the motion at a later date. For example, if a party fails to file a motion to compel production of Underlying Documents Related to Written Direct Cases by September 22, 1995, that party is precluded from filing that motion at a later date with either the Copyright Office or the CARP. In the case of document production responses, it is expected that parties receiving requests will respond by the appropriate deadline. Motions to comply with the request may be filed beginning on the first day after the response deadline and up to the September 22 deadline for motions related to document production.[1]

Due to the time limitations between the procedural steps of the precontroversy discovery schedule, we are requiring that all discovery requests and responses to such requests be served by hand or fax on the party to whom such request or response is directed. A complete copy of the response or request shall also be served on the Copyright Office. Service via the mail, addressed to the official address in § 251.1, is permissible.

[1] Motions related to the September 27 Production of Documents in Response to Follow-Up Requests may be filed up to the October 2 deadline for All Other Motions, Petitions and Objections.

Filing and service of all precontroversy motions, petitions, objections, oppositions and replies shall be as follows. In order to be considered properly filed with the Librarian and/or Copyright Office, all motions, petitions, objections, oppositions and replies must be brought to: Office of the Register of Copyrights, Room 403, James Madison Memorial Building, 101 Independence Avenue, S.E., Washington D.C. 20540, between the hours of 9 a.m. and 5 p.m. Form and content of such motions, petitions, objections, oppositions and replies must be in compliance with §§ 251.44(b)–(e). As provided in § 251.45(b), oppositions to motions, objections and petitions must be filed with the Copyright Office no later than seven business days from date of filing of such motions, objections and petitions. Replies are due five business days from the date of filing of oppositions. Service of all motions, petitions, objections, oppositions and replies must be made on counsel or the parties by means no slower than overnight express mail on the same day the pleading is filed.

Dated: March 13, 1995.

Marybeth Peters,

Register of Copyrights.

James H. Billington,

Librarian of Congress.

[FR Doc. 95–6831 Filed 3–20–95; 8:45 am]

BILLING CODE 1410–33–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) Propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before May 5, 1995. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, College Park, MD 20740. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

FOR FURTHER INFORMATION CONTACT:

Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending:

1. Department of the Army (N1–AU–95–2). Polygraph technical files.

2. Department of Housing and Urban Development (N1–207–95–3). Records relating to purchases and contracts.

3. Department of Housing and Urban Development (N1–207–95–4). Preforeclosure Sale Case Files.

4. Department of Housing and Urban Development (N1–207–94–5). Claims Without Conveyance of Title Case Files.

5. Department of the Interior (N1–48–95–1). Reduction in retention period for radio frequency assignment files.

6. Department of Transportation, Federal Highway Administration (N1–406–94–2). Unidentified black and white photographic prints depicting highway construction activities.

7. Department of the Treasury, Bureau of Engraving and Printing (N1–318–95–1). Final receipts for perfect deliveries of material other than National Bank Currency.

8. Department of the Treasury, Office of Thrift Supervision (N1–483–93–24). Financial data in electronic form and related textual records utilized in the supervision of thrift institutions.

9. Department of Veterans Affairs, Veterans Health Administration (N1–15–95–1). National Chaplain Management Information System.

10. Bonneville Power Administration (N1–305–94–2). Routine and facilitative records concerning environmental quality and power generation.

11. Office of Technology Assessment (N1–444–95–2). Listing of proposed assessment projects for 1978.

12. Tennessee Valley Authority (N1–142–92–18). Housekeeping and facilitative records relating to the operation of the Phosphate Development Works.

13. Tennessee Valley Authority (N1–142–93–8). Public relations video and audio recordings determined during archival processing to lack sufficient archival value to warrant permanent retention by the National Archives.

14. Tennessee Valley Authority (N1–142–93–10). Nuclear power plant operating records.

Dated: March 10, 1995.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

[FR Doc. 95–6947 Filed 3–20–95; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL INSTITUTE FOR LITERACY

Agency Information Collection Activities Under OMB Review

AGENCY: National Institute for Literacy.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before March 30, 1995.

FOR FURTHER INFORMATION CONTACT: Jaleh Behroozi Soroui at (202) 632–1506.

SUPPLEMENTARY INFORMATION:

Title

Application for Technology Awards to Governors' State Literacy Resource Centers to build a national electronic information and communication network for literacy by establishing regional hubs on the Internet in each of the four regions designated by the Department of Education's Office of Vocational and Adult Education.

Abstract

The National Literacy Act of 1991 established the National Institute for Literacy and required that the Institute conduct basic and applied research and demonstrations on literacy; collect and disseminate information to Federal, State and local entities with respect to literacy; and improve and expand the system for delivery of literacy services. This form will be used by State Governors' State Literacy Resource Centers to apply for funding to create regional electronic information and communication hubs for literacy that will build technological capacity for electronic exchange across the literacy community. Evaluations to determine successful applicants will be made by a panel of literacy experts using the published criteria. The Institute will use this information to make a maximum of four cooperative agreement awards for a period of up to 2 years.

Burden Statement: The burden for this collection of information is estimated at 55 hours per response. This estimate includes the time needed to review instructions, complete the form, and review the collection of information.

Respondents: Governors of States and Trust Territories and the Mayor of the District of Columbia.

Estimated Number of Respondents: 15.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 975 hours.

Frequency of Collection: One time. Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to: Jaleh Behroozi Soroui, National Institute for Literacy, 800 Connecticut Ave., NW., Suite 200, Washington, DC 20006, and Dan Chenok, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Sharyn M. Abbott,

Acting Director.

[FR Doc. 95–6902 Filed 3–20–95; 8:45 am]

BILLING CODE 6055–01–M

NATIONAL SCIENCE FOUNDATION

Collection of Information Submitted for OMB Review

In accordance with the Paperwork Reduction Act of OMB Guidelines, the National Science Foundation is posting a notice of information collection that will affect the public. Interested persons are invited to submit comments by April 21, 1995. Copies of materials may be obtained at the NSF address or telephone number shown below.

Agency Clearance Officer: Herman G. Fleming, Division of Contracts, Policy, and Oversight, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, or by telephone (703) 306–1243.

Comments may also be submitted to:

OMB Desk Officer: Office of Information and Regulatory Affairs, ATTN: Dan Chenok, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

Title: Survey of Earned Doctorates in the United States.

Affected Public: Individuals.

Respondents/Reporting Burden: 41,000 respondents: average 20 minutes per response.

Abstract: Data collected from research doctorates when they earn their degree is used by five Federal agencies for program planning, program evaluation, policy, and data dissemination. These data are especially used to describe the participation of women, racial/ethnic minorities, and foreign citizens.

Dated: March 16, 1995.

Herman G. Fleming,

Reports Clearance Officer.

[FR Doc. 95–6964 Filed 3–20–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Education and Human Resources: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science

Foundation announces the following meeting.

Name: Advisory Committee for Education and Human Resources (#1119).

Date and time: April 3, 1995, 12:30 p.m.–5:00 p.m., April 4, 1995, 8:30 a.m.–5:00 p.m.

Place: Arlington Renaissance Hotel, 950 N. Stafford Street, Arlington, VA 22203.

Type of meeting: Open.

Contact person: Peter E. Yankwich, Executive Secretary, Directorate for Education and Human Resources, Room 805, Arlington, VA 22230, (703) 306–1604.

Summary minutes: May be obtained from contact person listed above.

Purpose of committee: To provide advice and recommendations concerning NSF support for Education and Human Resources.

Agenda: Review of FY 1995 Programs and Initiatives Strategic Planning for FY 1996 and Beyond.

Dated: March 16, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–6866 Filed 3–20–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collections: Qualifications Investigation, and Qualifications Investigation, Clerical/Secretarial.

3. The form number if applicable: NRC Form 212, and NRC Form 212A.

4. How often the collection is required: Whenever NRC Office of Personnel specialists determine qualification investigations are required in conjunction with applications for employment related to vacancies.

5. Who will be required or asked to report: Supervisors, former supervisors, and/or other references of external applicants.

6. An estimate of the number of responses: 1400 annually for the NRC Form 212, and 300 annually for the NRC Form 212A.

7. An estimate of the total number of hours needed annually to complete the requirement or request: NRC Form 212, 350 hours (15 minutes per response), and NRC Form 212A, 75 hours (15 minutes per response).

8. Section 3504(h), Pub. L 96–511 does not apply.

9. Abstract: Information requested on NRC Forms 212 and 212A is used to determine the qualifications and suitability of external applicants for employment in professional and clerical/secretarial positions with the NRC. The completed form may be used to examine, rate and/or assess the prospective employee's qualifications. The information regarding the qualifications of applicants for employment is reviewed by professional personnel of the Office of Personnel, in conjunction with other information in the NRC files, to determine the qualifications of the applicant for appointment to the position under consideration.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 3120 L Street, NW., (Lower Level), Washington, DC 20555.

Comments and questions should be directed by mail to the OMB reviewer: Troy Hillier, Office of Information & Regulatory Affairs (3150–0034), NEOB 10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 14th day of March, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–6875 Filed 3–20–95; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

1. Type of submission, (new, revision, or extension): Extension.

2. The title of the information collection: Request for Records.

3. The form number if applicable: NRC Form 57.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Individuals requesting Public Document Room (PDR) documents.

6. An estimate of the number of annual responses: 45,000 per year.

7. An estimate of the total number of hours to complete the requirement or request: 750 hours annually (45,000 forms × .01666 hr/form) or about 1 minute per individual.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: This form is utilized by individual members of the public to request publicly available documents in NRC's Headquarters Public Document Room (PDR). The form serves as a suspense slip on the shelf when the document is charged out.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Troy Hillier, Office of Information and Regulatory Affairs (3150–0063), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be communicated by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 14th day of March, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Granford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–6874 Filed 3–20–95; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the

following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: NRC Form 314—Certificate of Disposition of Materials.

3. The form number if applicable: NRC Form 314.

4. How often the collection is required: The form is submitted once, when a licensee terminates its license.

5. Who will be required or asked to report: Persons holding an NRC license for the possession and use of radioactive byproduct, source, or special nuclear material who are ceasing licensed activities and terminating the license.

6. An estimate of the number of responses: 400.

7. An estimate of the total number of hours needed to complete the requirement or request: An average of 0.5 hours per response, for a total of 200 hours.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: NRC Form 314 furnishes information to NRC regarding transfer or other disposition of radioactive material by licensees who wish to terminate their licenses. The information is used by NRC as part of the basis for its determination that the facility has been cleared of radioactive material before the facility is released for unrestricted use.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer, Troy Hiller, Office of Information and Regulatory Affairs (3150–0028), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 14th day of March, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–6873 Filed 3–20–95; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR Part 39—Licenses and Radiation Safety Requirements for Well Logging.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Applications for new licenses and amendments may be submitted at any time. Applications for renewal are submitted every 5 years. Reports are submitted as events occur.

5. Who will be required or asked to report: Applicants for and holders of specific licenses authorizing the use of licensed radioactive material in well logging.

6. An estimate of the number of responses: 643.

7. An estimate of the total number of hours needed to complete the requirement or request: Approximately 3.2 hours annually per respondent for applications and reports, plus approximately 214 hours annually per recordkeeper. The industry total burden is 13,676 hours annually.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: NRC regulations in 10 CFR Part 39 establish radiation safety requirements for the use of radioactive material in well logging operations. The information in the applications, reports and records is used by the NRC staff to ensure that the health and safety of the public is protected and that licensee possession and use of source and byproduct material is in compliance with license and regulatory requirements.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Troy Hillier, Office of Information and Regulatory Affairs (3150–0130), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 14th day of March, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–6876 Filed 3–20–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 318]

Baltimore Gas and Electric Company; Calvert Cliffs Nuclear Power Plant Unit No. 2, Environmental Assessment and Funding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from Facility Operating License No. DPR–69, issued to Baltimore Gas and Electric Company (the licensee), for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 2 (CC2) located in Calvert County, Maryland.

Environmental Assessment

Identification of the Proposed Action

This Environmental Assessment has been prepared to address potential environmental issues related to the licensee's application of February 24, 1995. The proposed action would exempt the licensee from: (1) The requirements of 10 CFR Part 50, Appendix J, Paragraph III.D.1.(a), to permit a one-time interval extension between the first and second Type A test (containment integrated leak rate test) for approximately 24 months from the spring 1995 refueling outage to the spring 1997 refueling outage and, (2) would extend the second 10-year service period to 12 years allowing the third Type A test to be performed during the spring 1999 refueling outage.

The Need for the Proposed Action

The proposed action is needed to permit the licensee to defer the Type A test from the spring 1995 refueling outage to the spring 1997 refueling outage, which will also result in extending the second 10-year service period to 12 years to allow the third Type A test to be performed, thereby deferring the cost of performing the tests and elimination the time required to perform the test from the critical path schedule during the upcoming spring

1995 refueling outage. In addition, not performing the test during this outage will reduce the occupational radiation exposure which is consistent with as low as reasonable achievable goal of the licensee's Radiation Protection Program.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the one-time interval extension between the first and second Type A tests and the extension of the 10-year service period to 12 years would not increase the probability or consequences of accidents previously analyzed and the proposed exemptions would not affect facility radiation levels or facility radiological effluents. The licensee has analyzed the results of previous Type A tests performed at CC2. Although the first test was not successful,the licensee promptly identified and corrected the problems. As a result, the last three tests have been successful and have demonstrated good containment performance. The licensee will continue to be required to conduct the Type B and C local leak rate tests which, subsequent to the prompt corrective actions following the initial Type A test, have been shown to be the principal means of detecting containment leakage paths with the Type A tests confirming the Type B and C test results. It is also noted that the licensee, as a condition of the proposed exemptions, will perform the visual containment inspection although it is only required by Appendix J to be conducted in conjunction with Type A tests. The NRC staff considers that these inspections, though limited in scope, provide an important added level of confidence in the continued integrity of the containment boundary. The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the NRC staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Calvert Cliffs Nuclear Power Plant, Unit No. 2.

Agencies and Persons Consulted

In accordance with its stated policy, the NRC staff consulted with the Maryland State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated February 24, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Calvert County Library, Prince Frederick, Maryland 20678.

Dated at Rockville, Maryland, this 15th day of March, 1995.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–6877 Filed 3–20–95; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on April 5, 1995, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and matters the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, April 5, 1995—2:00 p.m. Until the Conclusion of Business

The Subcommittee will discuss proposed ACRS activities and related matters. It will also discuss the status of the appointment of members to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefore can be obtained by contracting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: March 15, 1995.

Sam Duraiswamy

Chief, Nuclear Reactors Branch.

[FR Doc. 95–6879 Filed 3–20–95; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

National Information Infrastructure; Public Meeting

AGENCY: Office of Management and Budget.

ACTION: National Information Infrastructure Security issues forum; notice of public meeting and request for public comments.

SUMMARY: The National Information Infrastructure Security Issues Forum

will conduct a public meeting to continue a dialogue between government and the private and public interest sectors on issues related to the security of information on the National Information Infrastructure (NII). Interested parties—especially users and providers of services based on the public switched network as well as cable, wireless, satellite, and Internet communications—are invited to submit a 1–2 page position statement and request to testify on the subject of the availability and the reliability of the NII.

The meetings are sponsored by the NII Security Issues Forum of the Information Infrastructure Task Force and Mega-Project III of the U.S. Advisory Council on the NII.

DATES: The public meeting, ''The NII: Will It Be There When You Need It? Will It Be Safe To Use?'' will be held on Tuesday, March 28, 1995, from 9:00 a.m. to 12:30 p.m. in Room 4830 at the Department of Commerce in Washington, DC.

Those wishing to testify should submit a 1–2 page position statement and request to participate by March 20, 1995. Individuals wishing to offer general comments or present questions may request to do so during the meeting. Written comments may be submitted on paper or electronically, in ASCII format, and will be accepted until April 21, 1995.

ADDRESSES: The public meeting will be held in Room 4830 at the Department of Commerce at 14th Street and Constitution Avenue NW., in Washington, DC.

Postion statements and requests to appear for the meeting, ''The NII: Will It Be There When You Need It? Will It Be Safe To Use?'' should be sent to the National Communications Systems, 701 South Court House Road, Arlington, VA 22204, marked to the attention of Mr. Mark Centra. Position statements may also be submitted via fax to (703) 746–4960 or through electronic mail to centram@cc.ims.disa.mil. Electronic mail should be submitted as unencoded, unformatted, ASCII text.

Parties offering testimony are asked to provide them on paper, and where possible, in machine-readable format. Machine-readable submissions may be provided through electronic mail messages sent over the Internet, or on a 3.5″ floppy disk formatted for use in an MS–DOD based computer. Machine-readable submissions should be provided as unencoded, unformatted ASCII text.

Written comments should include the following information:

- Name and organizational affiliation, if any, of the individual responding;
- An indication of whether comments offered represents views of the respondent's organization or are the respondent's personal views; and
- If applicable, information on the respondent's organization, including the type of organization (e.g., trade association, private corporation, non-profit organization) and general areas of interest.

FOR FURTHER INFORMATION CONTACT: For further information relating to the availability and reliability of the NII, contact Mr. Mark Centra of the National Communications System at (703) 607–6183.

SUPPLEMENTARY INFORMATION:

I. Issues for Public Comment

A. Background

The NII is a system of high-speed telecommunications networks, databases, and advanced computer systems that will make electronic information more widely available and accessible than ever before. The NII includes not only the Internet, but also the public switched network, and cable, wireless, and satellite communications. As the network becomes more interconnected, citizens and organizations will engage in multimedia communications, as well as sell goods and services electronically, share data resources, and receive Federal benefits. This increased availability and accessibility of services and products provided through information technology will dramatically affect the way in which individuals conduct their everyday affairs.

Consequently, broad public and commercial use of the NII hinges upon implementing technologies, policies, and practices that not only ensure that users of information systems have access to information when and where they need it, but that subjects of information records are able to protect themselves from unauthorized or inappropriate access to or use of information.

''Americans will not use the NII to its full potential unless they trust that information will go where and when they want it and nowhere else,'' declared Sally Katzen, Administrator of the Office of Information Regulatory Affairs at OMB and chair of the Forum. ''The Federal government is a primary user of the NII and thus a catalyst for change. Yet the NII will be designed, built, owned, operated, and used primarily by the private sector, making it essential that security on the NII be considered in partnership with the public.''

To address these critical issues, the Vice president formed the Information Infrastructure Task Force (IITF). The IITF is chaired by Secretary of Commerce Ron Brown and is comprised of senior Administration officials having expertise in technical, legal, and policy areas pertinent to the NII. The Mission of the IITF is to articulate and implement the Administration's vision for the NII. The NII Security Issues Forum was established within the IITF to address the cross-cutting issue of security in the NII.

In addition to the IITF, the President has established the U.S. Advisory Council on the National Information Infrastructure. The Advisory Council represents industry, labor, and public interest groups, and advises the Secretary of Commerce on issues relating to the NII. Mega-Project III, one of three work groups of the Advisory Council, is responsible for addressing security, intellectual property, and privacy issues as they relate to the NII.

The public meetings are part of an ongoing dialogue with the Administration to assess the security needs and concerns of users of the National Information Infrastructure (NII). The testimony of the meeting participants will form the basis of a report being developed by the NII Security Issues Forum, ''The NII Security Plant.'' The Security Plan will: Outline findings of security needs; present an analysis of technical, legal and architectural issues relating to security; discuss the Federal and private sector roles in meeting these need; and propose milestones towards the achievement of Federal roles.

B. Structure and Content of Public Meeting

Security—or the confidentiality, integrity, availability, and reliability of information and services provided on the NII—is linked inextricably to its broad public use. The Forum and Mega-Project III seek input from parties representing individual and corporate users of communications networks as well as providers of communications services.

Security will determine whether, how, and to what extent the NII will be used in such critical applications as enabling electronic commerce, providing public information, training and educating students, supporting the efficient delivery of government services, and utilizing intelligent transportation systems.

NII security will be supported by technology, as well as by a sound legal and policy framework. The Forum and Mega-Project III seek input in this area

as well. Specifically, what technologies, legal remedies, and policy frameworks, or combinations thereof, can be used to effectively protect the security of the Internet, the public switched network, and other communications systems?

A panel of witnesses drawn from the public will be assembled to discuss the following topics with a panel of senior Administration officials, members of the Security Issues forum, and members of the U.S. Advisory Council on the NII, and to field questions and comments from other members of the public.

The public meeting will consist of two panels. The first panel, entitled ''Experiences and Expectations,'' representing users of the NII, should address questions in three principal areas:

1. As systems evolve from a closed to a more open status, what are your expectations and needs regarding the availability and reliability of services and information on the NII? Examples of risks include loss of proprietary or personal information or network disruptions or outages.

2. How does your organization plan to ensure that information and underlying systems are available to legitimate users? Consider technical, managerial, and legal strategies.

3. How should government support the reliability and availability of the NII? What government policies or guidance would bolster your confidence in the NII?

The second panel, entitled, ''current State of Affairs and Future Challenges,'' represented industry providers of communications services, whether cable, wireless, satellite, Internet, or public switched network communications, should address questions in three principal areas:

1. What are the security risks faced by industry providers of communications services today? As networks evolve from a closed status to a more open one, how will the interoperability of systems and the expansion of universal access affect availability and reliability? How do you plan to address potential threats such as network disruptions and outages or degradation of service as new services are implemented? Consider technical, managerial, and legal strategies.

2. Do you feel that end-users are aware of the level of availability and reliability associated with various components of the NII? What steps have you taken to educate or meet the expectations of the user in the areas of availability and reliability of the NII, particularly within the Internet?

3. How should government support availability and reliability in the NII? Some examples might include legislation, public education, or regulation.

II. Guidelines for Participation in the Public Hearing

Individuals who would like to participate on a panel must request an opportunity to do so no later than March 20, 1995, by submitting a brief, 1–2 page summary position statement. If approved, each participant will be allowed to present brief opening remarks. Primary participation, however, shall be during the general discussion to follow, according to the format described above.

Participants in the public meeting will testify before and participate in discussions with a panel consisting of members of the Advisory Council, members of the Security Issues Forum, and other Administration officials.

Individuals not selected as panel participants may offer comments or ask questions of the witnesses by requesting an opportunity to do so and being recognized during the meeting by the chairs of the meetings. Oral remarks offered in this fashion should not exceed three minutes. No advance approval is required to attend the public meetings, offer comments, or present questions.

The public meeting will be chaired by Ms. Sally Katzen, Chair of the NII Security Issues Forum. The meeting will be co-chaired by Mr. Bob Marquette, Deputy Manager, National Communications Systems; Mr. Tom Sugrue, Deputy Assistant Secretary for Communications and Information, National Telecommunications and Information Administration; and Mr. Robert Pepper, Chief, Office of Plans & Policy, Federal Communications Commission.

More information about the Clinton Administration's National Information Infrastructure initiative can be obtained from the IITF Secretariat. Inquiries may be directed to Yvette Barrett at (202) 482–1835, by e-mail to ybarrett@ntia.doc.gov, or by mail to U.S. Department of Commerce, IITF Secretariat, NTIA, Room 4892, Washington, DC 20230.

For inquiries over the Internet to the IITF Gopher Server, gopher, telnet (login = gopher), or anonymous ftp to iitf.doc.gov. Access is also available over the World-Wide-Web. Questions may be addressed to nii@ntia.doc.gov.

For access by modem, dial (202) 501–1920 and set modem communications parameters at no parity, 8 data bits, and one stop (N,8,1). Modem speeds of up to 14,400 baud are supported.

Sally Katzen,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 95–6882 Filed 3–20–95; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request fpr Reclearance of an Information Collection for Comprehensive Medical Plans

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for reclearance of an information collection. Comprehensive Medical Plans: Applications to Participate in Federal Employees Health Benefits (FEHB) Program and Contractor Records Retention is used by OPM to determine if Comprehensive Medical Plans applying for participation in the Federal Employees Health Benefits Program meet the requirements for participation. The second part of this clearance covers recordkeeping requirements imposed on the plans that participate in the FEHB program for the purpose of contract auditing and monitoring.

The total annual reporting burden is estimated to be 13,230 hours based on 49 applications at an average time burden of 270 hours per plan. The recordkeeping burden is estimated to be 300 hours. Therefore, the total annual reporting burden including both recordkeeping and reporting requirements equals 13,530 (13,230 plus 300) hours.

For copies of this proposal, contact Doris R. Benz on (703) 908–8564.

DATES: Comments on this proposal should be received on or before April 20, 1995.

ADDRESSES: Send or deliver comments to—

Kenneth H. Glass, Chief, Insurance Operations Division, Retirement and Insurance Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3415, Washington, DC 20415

and

Joseph Lackey, OPM Desk Officer, Office of Information and, Regulatory Affairs, Office of Management and Budget, New Executive Office

Building, NW., Room 3002, Washington, DC 20503

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Forms Analysis & Design Section, (202) 606–4025.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 95–6867 Filed 3–20–95; 8:45 am]

BILLING CODE 6325–01–M

Notice of Request for Expedited Review of Employment Information Customer Service Survey

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for clearance of a new information collection. The Employment Information Customer Service Survey authorized by Executive Order 12862, will be used to determine the job seeking public's level of satisfaction with OPM's service. The information obtained from the survey will be used to identify areas where service improvements are necessary. Participation is voluntary.

Approximately 60,000 surveys will be completed annually. We estimate it will take 10 minutes to complete this form. The total annual burden is 10,000 hours.

A copy of the proposal is appended to this notice.

DATES: Comments on this proposal should be received on or before March 27, 1995. The Office of Management and Budget has been requested to take action within 10 days.

ADDRESSES: Send or deliver comments to: Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

U.S. Office of Personnel Management.

James B. King,

Director.

Federal Employment Information Customer Service Survey

Our goal is to provide service that meets your needs. Please take a few minutes to let us know how well we have served you, and how we may better serve you in the future. Please respond to each question by circling the number that corresponds to your answer. We have provided a postage paid envelope. Thank you for your time!

	I Called	I Wrote	I Visited
1) How did you contact OPM?	1	2	3

2) Why did you contact us?
1: To obtain general information about Federal employment
2: To find out what specific jobs are open and how to apply
3: To obtain job information materials
4: To submit an application or take a test
5: Other_____

	Not at all		Moderately		Completely	Does not apply
3) Was our staff:						
• courteous?	1	2	3	4	5	6
• responsive?	1	2	3	4	5	6
• knowledgeable?	1	2	3	4	5	6
• available to answer your questions (in person or by phone)?	1	2	3	4	5	6
4) Was our service:						
• timely?	1	2	3	4	5	6
• successful in meeting your information needs?	1	2	3	4	5	6
5) Was our employment information:						
• current?	1	2	3	4	5	6
• accurate?	1	2	3	4	5	6
• helpful?	1	2	3	4	5	6
• easy to access?	1	2	3	4	5	6
6) How helpful were the following services:						
• talking to an Information Specialist in person	1	2	3	4	5	6
• talking to an Information Specialist by telephone	1	2	3	4	5	6
• writing to an Information Specialist	1	2	3	4	5	6
• using our automated systems (e.g., touchscreen)	1	2	3	4	5	6
7) Did we:						
• tell you how to contact us with complaints or suggestions regarding our services (if applicable)?	1	2	3	4	5	6
• encourage your comments to better meet your needs in the future?	1	2	3	4	5	6

8) If you requested material from us, how long did it take to receive it?

1 week or less	1–2 weeks	More than 2 weeks	Did not request material
1	2	3	4

9) Please tell us how we may better serve you. If possible, when making your comments, please tell us which question number(s) above (#1 through 8) they refer to:

10) If you wish, please give us your name, address, and telephone number:

Public Burden Statement: Executive Order 12862 authorizes the solicitation of this information. The purpose of this collection is to find out how well the Office of Personnel Management is serving the public. Participation is voluntary. We think providing this information takes an average of 10 minutes, including the time for reviewing instructions and reviewing the requested information. Send comments regarding our estimate or any other aspect of this form, including suggestions for reducing time needed to Paperwork Reduction Project, OMB Clearance Number 3206–xxxx, Office of Management and Budget, Washington, D.C. 20503.

[FR Doc. 95–6871 Filed 3–20–95; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Agricultural Policy Advisory Committee for Trade and Agricultural Technical Advisory Committees for Trade Meetings

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of Agricultural Policy Advisory Committee for Trade and Agricultural Technical Advisory Committees for Trade Meetings.

SUMMARY: The Agricultural Policy Advisory Committee for Trade (APAC) and the Agricultural Technical Advisory Committees for Trade (ATACs) will hold meetings during the period of March 24, 1995—May 31, 1995. The meetings will include a review and discussion of current issues which influence U.S. agricultural trade policy.

Pursuant to section 2155(f)(2) of title 19 of the United States Code, the U.S. Trade Representative has determined that these meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy priorities, negotiating objectives, or bargaining positions. Accordingly, these meetings will be closed to the public.

Briefings regarding non-sensitive issues may be held in conjunction with these meetings. Such briefings will be open to the public. Information regarding the dates and times of such briefings can be obtained by contacting John B. Winski, Joint Executive Secretary, Agricultural Policy Advisory Committee for Trade, Foreign Agricultural Service, U.S. Department of Agriculture, at (202) 720–6829.

ADDRESSES: All meetings will be held at the U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250 unless an alternate site is necessary.

FOR FURTHER INFORMATION CONTACT:

Debbie Leilani Shon, Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison, Office of the United States Trade Representative at (202) 395–6120 or John B. Winski, Joint Executive Secretary, Agricultural Policy Advisory Committee for Trade, Foreign Agriculture Service, U.S. Department of Agriculture, at (202) 720–6829.

Michael Kantor,

United States Trade Representative.

[FR Doc. 95–6901 Filed 3–20–95; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35487; International Series Release No. 792; File No. S7–8–90]

Order Approving Proposed Amendment to the Options Price Reporting Authority's National Market System Plan for the Purpose of Unbundling Services for Foreign Currency and Index Options

March 14, 1995.

On September 19, 1994, the Options Price Reporting Authority (''OPRA'')[1] filed with the Commission pursuant to Rule 11Aa3–2[2] under the Securities Exchange Act of 1934 (''Act'')[3] a proposed amendment to its National Market System Plan for the purpose of providing separate unbundled last sale and quotation services for foreign currency and index options, and to charge separately for access to each such service. Notice of the proposed amendment was provided by issuance of a Commission release[4] and by publication in the **Federal Register**.[5] One comment letter was received. For the reasons discussed below, the Commission is approving the proposed amendment.

I. Description

The proposed amendment permits OPRA to unbundle its market information services for foreign currency options (''FCOs'') and index options, and to impose separate charges for access to each service. The amendment provides for the establishment of separate accounting centers for equity, index and FCOs, on January 1, 1996. Each accounting center will be allocated revenues, costs and expenses associated with the receipt, processing and distribution of last sale and quotation information, as well as the costs of developing, operating and administering services and facilities associated with each accounting center. Such revenues, costs and expenses then will be further allocated among the parties providing a market in the securities included in each accounting center. The amendment also provides for special allocation of incremental costs associated with the operation of one or more services outside the regular trading hours. Finally, the amendment includes a few nonsubstantive, editorial changes to clarify the language of the Plan.

The implementation of separate services for FCO and index option information requires certain systems modifications by OPRA's processor, Securities Industry Automation Corporation (''SIAC''). The implementation of separate services also will require advance notice to OPRA's vendors and subscribers of the changes to OPRA's fees and specifications, as well as changes in contractual provisions, in accordance with OPRA's agreements with those persons. Vendors will then be able to determine whether and how they wish to offer separate FCO and index option services to their customers, and to make any necessary modifications to their own systems and procedures associated with the unbundling of these services.

II. Summary of Comments

As noted above, the Commission receive one comment letter. The

[1] OPRA is a National Market System Plan approved by the Securities and Exchange Commission (''Commission'' or ''SEC'') pursuant to Section 11A of the Act and Rule 11Aa3–2, thereunder. Securities Exchange Act Release No. 17638 (March 18, 1981).

The Plan provides for the collection and dissemination of last sale quotation information on options that are traded on the five member exchanges. The five exchanges which agreed to the OPRA Plan are the American Stock Exchange (''AMEX''), the Chicago Board Options Exchange (''CBOE''), the New York Stock Exchange (''NYSE''), the Pacific Stock Exchange (''PSE''), and the Philadelphia Stock Exchange (''PHLX'').

[2] 17 CFR 240.11Aa3–2.

[3] 15 U.S.C. 78k–1.

[4] Securities Exchange Act Release No. 35049 (December 2, 1994).

[5] 59 FR 63843 (December 9, 1994).

Securities Industry Association's (''SIA'')[6] Telecommunications and Information Management Committee (''TIMC'')[7] is opposed to the amendment to the OPRA Plan.[8] TIMC anticipates the separate access charges that result from the unbundling of FCO and index options will constitute a substantial price increase for the data currently provided by OPRA. In addition, TIMC concluded that the establishment of separate accounting centers as well as the necessity for systems modifications by SIAC, vendors and some securities firms will result in additional costs to both the distribution and accounting systems used by securities firms to monitor OPRA's information services. TIMC concluded that the amendment, while generating additional costs, does not provide additional benefits to those entities that use OPRA's services.

III. Discussion

The Commission has determined to approve the amendment to the OPRA Plan. The Commission finds that the proposed amendment is consistent with the requirements of the Act and the rules and regulations thereunder applicable to OPRA, including the requirements of Sections 11A(a)(1)(C)(iii) and (D) of the Act.[9] Section 11A(a)(1)(C)(iii) states that the availability of information to brokers, dealers and investors, with respect to quotations for and transactions in securities, is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets. Section 11A(a)(1)(D) provides for the linking of all markets for qualified securities through communications and data processing facilities to foster efficiency, enhance competition, increase the information available to brokers, dealers and investors, facilitate the offsetting of investors' orders, and contribute to the best execution of such orders. Further, the Commission believes that the amendment is consistent with Rule 11Aa3–2(c)(2)[10] in that it is appropriate in the public interest; for the protection of investors and the maintenance of fair and orderly markets; and to remove impediments to, and perfect the mechanisms of, a national market system.

Although the Commission understands the concerns raised by TIMC, the Commission believes that the proposed amendment is consistent with the Act and the rules and regulations thereunder applicable to OPRA. As noted above in the summary of comments, TIMC is opposed to the Plan amendment. Generally, the basis for TIMC's opposition is its expectation that additional costs will accrue as a result of the proposal. The amendment, however, does not include a fee increase for the market data currently provided by OPRA. Instead, the amendment permits OPRA to unbundle its services pertaining to FCOs and index options and to change separately for such services on or after January 1, 1996. Under the amendment, the decision to unbundle fees is subject to the conditions of the OPRA Plan and the requirements of Rule 11Aa3–2.[11] Any subsequent decision to change fees by OPRA, therefore, will be filed with the Commission. Further, while some entities may have to incur initial costs to accommodate the changes contemplated by the amendment, such changes will provide flexibility to both vendors and subscribers. Unbundling will allow OPRA market information services to be tailored to the individual needs of vendors and subscribers.

It is therefore ordered, pursuant to Section 11A(a)(3)(B) of the Act,[12] that the amendment (S7–8–90) to the OPRA Plan be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–6844 Filed 3–20–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35492; File No. SR–Amex–95–09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Entry of Market-at-the-Close Orders

March 15, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 22, 1995, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new Commentary .02 to Exchange Rule 109 to provide that members entering market-at-the-close (''MOC'') orders through the PER of AMOS systems must do so no later than 3:50 p.m. The text of the proposed rule change is as follows [new text is italicized]:

Rule 109

Commentary

.01 Each ''stopped'' transaction shall be reported for printing on the tape in the form and manner prescribed by the Exchange.

.02 Members entering market-at-the-close orders through the PER or AMOS systems must do so no later than 3:50 p.m. The foregoing shall not limit or restrict the entry of market-at-the-close orders (or their cancellation) other than via such systems.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 109 sets forth the procedures to be followed in executing MOC orders. Paragraph (d) of the Rule provides that where there is an imbalance between MOC buy and sell orders, the imbalance of buy orders would be executed against the offer and an imbalance of sell orders would be executed against the bid. The remaining buy and sell orders are then paired off and executed at the price of

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[6] The SIA is a trade association that represents the business interests of securities firms throughout North America. Its members include investments banks, brokers, dealers and mutual fund companies.

[7] The TIMC focuses on issues pertaining to data processing, market data, telecommunications and related technology activities.

[8] Letter from Heidi H. Heiden, Chairman, SIA TIMC, to Margaret H. McFarland, Deputy Secretary, SEC (September 9, 1994).

[9] 15 U.S.C. 78k–1(a)(1)(C)(iii) and (D).

[10] *Supra,* note 2 at (c)(2).

[11] *Supra,* note 2.

[12] 15 U.S.C. 78k–1(a)(3)(B).

[13] 17 CFR 300.30–3(a)(29).

the immediately preceding last sale. The ''pair off'' transaction is reported to the consolidated last-sale reporting system as ''stopped stock.'' [1]

Currently, members may enter MOC orders until 4:00 p.m. when trading closes. MOC orders that are entered through the Exchange's order routing systems, PER and AMOS, can have a disruptive effect on the market when they are entered very shortly before the close. Under these circumstances it can take several minutes for the specialist to ascertain whether an imbalance exists and to pair off buyers and sellers, with the result that the executed MOC transactions do not print until after the close. When this happens, it becomes difficult for market participants to ascertain the closing price of a security in a timely fashion.[2]

To address this concern, the Exchange is proposing an amendment to Commentary .02 to Exchange Rule 109 to provide for a 3:50 p.m. cut-off time for MOC orders entered through PER or AMOS on both expiration and non-expiration days. After this time, no MOC order could be entered or reduced in size via AMEX systems. MOC orders may still be entered, modified, or canceled until 4:00 p.m. other than through the automated systems. The Exchange expects that this proposed change will enable specialists to more efficiently execute and report MOC orders.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

[1] A ''stopped stock'' transaction is one in which a floor broker or specialist pairs-off buy and sell market-at-the-close orders when holding those orders simultaneously in the same stock.

[2] The closing price is the price at which the MOC orders were executed. Telephone conversation with Stuart Diamond and Linda Tarr, Amex, and Glen Barrentine and Jennifer Choi, SEC, on March 7, 1995.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW,. Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–95–09 and should be submitted by April 11, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–6938 Filed 3–20–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35488; File No. SR–Amex–94–46]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Qualification Examinations Administered by the Exchange and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1

March 14, 1995.

On October 25, 1994, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to update and revise its examinations to conform them to new rules and procedures.[3] On March 10, 1995, the Amex submitted Amendment No. 1 to the above referenced rule filing.[4] The proposed rule change includes the contents of the qualification examinations and related materials.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35016 (November 29, 1994), 59 FR 62428 (December 5, 1994). No comments were received on the proposal.

The Amex administers six qualification examinations: the Qualification Examination for Regular Members, the Qualification Examination for Options Principal Members (''OPMs''), the Put and Call Stock Option Examination, the Put and Call Option Questionnaire for Listed Personnel, the Specialist Examination and the Registered Equity Trader and Registered Equity Market Maker Examination. All six examinations are specifically designed for Amex membership applicants in order to test the applicant's knowledge in a variety of areas, including general trading principles and procedures as well as specific Amex rules and policies.

Pursuant to Amex Rule 50(a) every applicant for regular and options

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] The proposed rule change was filed pursuant to the SEC's position that all qualification examinations administered by the Exchange be filed with the Commission. *See* Securities Exchange Act Release No. 17258 (October 30, 1980), 45 FR 73906. *See also* letter from Brandon Becker, SEC, to Gordon L. Nash, Amex, dated March 5, 1991.

[4] *See* letter from Janice Stroughter, Director of Hearings and Special Counsel Legal & Regulatory Policy, Amex, to Amy Bilbija, Attorney, Commission, dated March 9, 1995. In Amendment No. 1 the Amex made several clarifications and corrections to three of the six exams filed with the Commission.

principal membership must pass a qualifying examination prior to undertaking any active duties on the Floor. As a result, regular members, who may trade stocks and options, take both the Qualifying Examination for Regular Floor Members and the Put and Call Stock Option Examination. OPMs, who are prohibited from trading equities, take the Qualifying Examination for OPMs and the Put and Call Stock Option Examination. Limited Trading Permit Holders [5] take the Qualifying Examination for OPMs and the Put and Call Stock Option Examination.

Commentary .01 to Exchange Rule 50(a) requires that a regular member who applies to register as a specialist and a regular or OPM member who applies to register as a registered floor trader must also pass an examination. Specialists take the Specialist Examination. Registered floor traders take the Registered Equity Trader and Registered Equity Market Maker Examination.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Sections 6(b)(5) and 6(c)(3)(B).[6] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system, and, in general, to protect investors and the public interest. Section 6(c)(3)(B) provides that a national securities exchange may examine and verify the qualifications of an applicant to become a person associated with a member in accordance with procedures established by the rules of the exchange, and may require any person associated with a member, or any class of such persons, to be registered with the exchange in accordance with procedures so established.

The Commission also believes that the proposed rule change is consistent with Section 15(b)(7) of the Act [7] which stipulates that prior to effecting any transaction in, or inducing the purchase or sale of any security, a registered broker or dealer must meet certain standards of operational capability, and that such broker or dealer must meet certain standards of training, experience, competence, and such other qualifications as the Commission finds necessary or appropriate in the public interest or for the protection of investors.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–94–46 and should be submitted by April 11, 1995.

Finally, the Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate in order to allow the Amex to begin utilizing the exams, as corrected. Further, the use of the six qualification exams has been noticed previously in the **Federal Register** for the full statutory period and the Commission did not receive any comments on it.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR-Amex–94–46) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–6843 Filed 3–20–95; 8:45 am]

BILLING CODE 8010–01–M

[5] This type of member may execute on the Floor transactions in options and other derivative products initiated by him for his own account and may give orders for such securities for his own account to regular members for execution provided, however, that this type of member may not trade in individual stock options listed on the Exchange. *See* Amex Constitution, Article IV § 1(j)(3).

[6] 15 U.S.C. 78f(b)(5) & (c)(3)(B) (1988).

[7] 15 U.S.C. 78o(b)(7) (1988).

[8] 15 U.S.C. 78s(b)(2) (1988).

[9] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35491; File No. SR–DGOC–94–06]

Self-Regulatory Organizations; Delta Government Options Corp.; Notice of Proposed Rule Change Relating to Implementing New Procedures Allowing for the Clearance and Settlement of Repurchase Transactions and Reverse Repurchase Transactions

March 15, 1995.

Pursuant to Section 19 (b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 31, 1994, Delta Government Options Corp. (''DGOC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DGOC. On December 9, 1994, January 10, 1995, January 24, 1995, February 13, 1995, and March 3, 1995, DGOC filed amendments to the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DGOC is proposing amendments to its Procedures that will insert new procedures allowing for the establishment of a clearance and settlement system for repurchase agreements (''repos'') and reverse repurchase agreements (''reverse repos''). Standards for participation, financial requirements, financial reports, audits, admission procedures, withdrawal of a participant(s), and such other standards as described in these new procedures are similar to DGOC's existing procedures and have been modified only insofar as they reflect repos and reverse repos.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letters from Barry E. Silverman, President, DGOC, to Jerry Carpenter, Assistant Director, Securities Processing Regulation, Division of Market Regulation (''Division''), Commission, (December 16, 1994); Barry E. Silverman, President, DGOC, to Jerry W. Carpenter, Assistant Director, Office of Securities Regulation (''OSPR''), Division, Commission (January 9, 1995); Kathryn V. Natale, Morgan, Lewis & Bockius, to Jerry W. Carpenter, Assistant Director, Division, Commission, (January 20, 1995); Kathryn V. Natale, Morgan, Lewis & Bockius, to Jerry W. Carpenter, Assistant Director, Division, Commission (February 10, 1995); and Barry Silverman, President, DGOC, to Christine Sibille, Senior Counsel, OSPR, Division, Commission (March 2, 1995).

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, DGOC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DGOC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to enable DGOC to clear and settle repos and reverse repos. Existing participants and nonparticipants have expressed an interest in such services. DGOC believes that by providing a centralized clearing and settlement facility for repos and reverse repos, it will enable users of such a facility for repos and reverse repos, it will enable users of such a facility to reduce credit exposure, decrease capital utilization, reduce transaction flow, and improve efficiency.

In the recent past, the U.S. fixed income securities dealer community has expressed significant interest in exploring mechanisms designed to reduce the risks associated with holding inventories of securities, trading derivative securities, and the attendant costs of maintaining such inventories. In particular, this exploratory effort has focused on the U.S. Treasury securities market as a consequence of the dramatic growth in the outstanding notional amounts and the resulting increased dealer trading inventories of Treasury Bills, Notes, and Bonds during the last several years.

In addition to the benefits that DGOC believes will accrue to the dealer community, DGOC believes the following systemic benefits of creating a clearing and settling mechanism for repos and reverse repos also are likely. First, through the imposition of daily margin requirements, there is an enhanced probability of performance on the part of participants even during times of market stress. Second, through netting, the exposures giving rise to margin requirements will result in optimal use of collateral. Third, as the common contraparty subject to Commission oversight, DGOC will provide transparency and access to an activity which is fundamental to efficiently functioning capital markets.

Prior to using the system, a DGOC participant must apply for membership in DGOC's repo clearance system. All applications for membership will be reviewed by DGOC's executive committee. The standards for participation are similar to the standards for participation in DGOC's other systems. For example, broker-dealer members must have minimum net capital of $25 million, and bank or insurance company members must have total equity capitalization of $500 million. At the time of admission to the system, each participant will be assigned a trading limit and may be assigned a position limit for a particular CUSIP.

DGOC's system will clear repo trades that result from a direct agreement between two participants or repo trades that have been agreed to through the facilities of brokers that have been specially authorized by DGOC (''Authorized Brokers'') to offer their services to DGOC participants. The Authorized Broker will make use of their own communications networks for the purpose of accepting bids and offers and effecting repo trades that will be cleared through DGOC. Specifically, bids and offers will be called in to the Authorized Broker by a participant, and the Authorized Broker will in turn display those bids and offers to all of its customers who are DGOC participants. Once the bidder and offerer agree on the repo rate, the underlying collateral description, the start date, the end date, and the partisan amount to be delivered, the trade will be effected.[3] Representatives of the buyer and seller at the Authorized Broker will intermediate between the buyer and seller to obtain a price to use for the collateral. The participants will not learn the identity of their contraparty.

After the price has been agreed upon, the Authorized Broker then will prepare either one trade report, representing both sides of the trade, or two trade reports, one for each side of the trade. The Authorized Broker then will forward the trade report or reports to DGOC. If the participants have agreed to the trade directly between themselves, each participant will forward a trade report to DGOC indicating its side of the trade. If DOGC does not receive a trade report from the contraparty, DGOC will contact the contraparty within one half hour to confirm the trade entered against them.

The trade report must show for each transaction (a) the identity of the reporting party and the contraparty, (b) the type of transaction, (c) the CUSIP number for the underlying collateral, (d) the repo rate for the transaction, (e) the par amount of securities for the total transaction, (f) the par amount of securities for each delivery and the associated money,(g) the trade date and time, and (h) the on-date and the off-date of the transaction. DGOC will review all trade reports to determine if their contents are valid and that all required information has been submitted.

If two separate trade reports are received for a transaction, DGOC will match the two trade reports. In order to be accepted for clearance, the trade reports must agree as to identity of the contraparty, type of transaction, the repo rate, the price, any rights of substitution, settlement date, maturity date of the Treasury securities, coupon rate if the underlying securities are Treasury notes or bonds, the CUSIP number, the on-date, and off-date. If the details do not match, the trade report(s) will go back to the sending party or parties until the match is reconciled. Matching of positions will be done continuously throughout the day and at the close of each trading day.[4] All trade reports received through an Authorized Broker also will be confirmed either orally or via facsimile with the buying and selling participants.

It the trade reports have been matched and confirmed, DGOC will be deemed to have accepted the transaction for clearance. However, DGOC will reject the transaction if it exceeds the participant's trading or position limits, the participant has been suspended from the system, or the transaction is not designated as delivery versus payment. If the transaction is accepted, DGOC interposes itself as the contraparty to both sides of the transaction. Trade data then will be keyed into DGOC's computer system for the purposes of generating clearance instructions to the clearing bank and for purposes of margining. The participants will receive a written daily activity report indicating DGOC's acceptance of the trade. The daily activity report will

[3] Generally, participants can cancel transactions at any time until the price of the underlying collateral has been agreed upon by the parties. Depending on participant system capabilities, cancellation will typically take place either on-line or by voice communication. If the cancellation is effected through voice communication, a follow-up notice will be prepared and transmitted to the participants.

[4] The close of each trading day will be at 2:30 p.m.

report trades DGOC accepted the previous business day.[5]

The details of the trade will be sent to the clearing bank along with the delivery instructions. Participants must maintain a bank account in one or more correspondent banks for purposes of the payment or return of margin, delivery or acceptance of the Treasury securities, or making or receiving payment for such securities. The selected correspondent bank must be a member of the Fed Wire System. The selling participant must deliver securities to the clearing bank against payment no later than one minute prior to the close of the Federal Bank Wire System. The clearing bank will redeliver such securities to the purchasing participant against payment for such securities.

DGOC will net trades under two circumstances. If a participant has a repo and a reverse repo with the same underlying collateral and off-date, the off-date settlement positions will be netted as to par amount, price, and accrued interest. If a participant renews a maturing repo for the same underlying collateral prior to the off-date for such repo. DGOC will report to the participant the net money difference between the two repo transactions.

DGOC's existing margining methodology will be adapted to incorporate repo transaction and reverse repo transaction exposures. Margin may be deposited in the form of ''Central Bank Funds,'' [6] Treasury bills, Treasury Notes, or Treasury bonds. Treasury securities will be valued at 95% of their market value. All participants will be required to maintain a minimum margin deposit of $1 million par amount Treasury bills with a maturity of less than 180 days. The amount of margin will be derived from two calculations: Mark to market and performance margin. Mark to market will represent the net amount of the estimated cost to liquidate a participant's under-margined position offset by the estimated proceeds from liquidation of its over-margined positions. Performance margin will represent an estimate of the net shortfall from the liquidation of a participant's repo positions at the close of the next business day taking into account the most adverse market movement in the price of the underlying Treasury securities which could reasonably be anticipated.

Price files, which will be updated several times intraday, as well as daily mark to market prices on repos will reference data on the underlying collateral as well as the participant's existing positions which are then used to calculate margin requirements. The margining system will be run and margin reports will be prepared and distributed to participants for margin collection. This process also will be the beginning point for the accounting system which will track all system activity. Margin will be set for each participant and will reflect the netting of payments and any potential exposures to the participant. Margin requirements will go into effect at the time the trade is accepted for clearance. Prior to 8:00 a.m. of each business day, each participant will be issued a daily margin report which will indicate the margin surplus or deficit. At or before settlement time on each business day, each participant will be obligated to deposit sufficient margin to satisfy the margin deficit shown on the daily report.

In the event of a failure to deliver securities on either the on-leg or off-leg, DGOC will still margin the transaction. DGOC also may elect to collect intraday margin if DGOC deems such collection necessary or advisable to reflect a market price change, the size of the participant's positions, the financial or operational condition of the participant, or otherwise to protect DGOC.

DGOC believes the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder applicable to DGOC and in particular with Section 17A(b) (3) (F) of the Act.[7] That section requires that a clearing agency's rules be designed, among other things, to promote the prompt and accurate clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. DGOC believes the proposed rule change will permit wider utilization of its system by providing participants with the ability to clear and settle repos and reverse repos.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DGOC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of DGOC. All submissions should refer to the File Number SR–DGOC–94–06 and should be submitted by April 11, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

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[5] If the on-leg is scheduled to settle that day, participants will not receive confirmation that DGOC has accepted the trade until the day after the trade has settled.

[6] Central Bank funds is defined as cash balances available for immediate withdrawal in accounts maintained at banks that are members of the Federal Reserve System or any other wire system operated in a similar characteristics or attributes.

[7] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[8] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35484; File No. SR–MSTC–94–21]

Self-Regulatory Organizations; Midwest Securities Trust Company; Order Granting Accelerated Approval of a Proposed Rule Change Establishing an Automated Program for the Transfer of Certain Securities Between the Midwest Securities Trust Company and Transfer Agents

March 14, 1995.

On December 28, 1994, the Midwest Securities Trust Company (''MSTC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–MSTC–94–21) under Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] to establish an automated program for the transfer of certain securities between MSTC and transfer agents. Notice of the proposal was published in the **Federal Register** on March 6, 1995.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change on an accelerated basis.

I. Description

MSTC is establishing an automated program, to be known as ATS, for the transfer of certain securities between MSTC and transfer agents. Under MSTC's program, MSTC and the transfer agents participating in the program will use a master balance certificate[3] to evidence the number of securities of a particular issue transferred into or out of MSTC and through the transfer agents. The transfer agents will have custody of the securities in the form of balance certificates registered in MSTC's nominee name. The balance certificates will be adjusted daily to reflect MSTC's withdrawal and deposit activity.

Previously, if a participant requested the withdrawal of one hundred shares of a security from MSTC, MSTC would send an electronic or written instruction to the transfer agent followed by a physical transfer of the shares from MSTC to the transfer agent. The transfer agent would reissue the shares in the requested name and would send the shares back to MSTC. Using the ATS program, an electronic instruction will immediately effectuate the withdrawal transfer, eliminating the extra step of physically transferring the security from MSTC to the transfer agent.

For issues eligible for ATS, MSTC will deliver to participating transfer agents nominee and/or non-nominee certificates[4] for each issue. The transfer agent will cancel the certificates delivered and issue one or more balance certificates per issue in the name of Kray & Co. The transfer agent will retain possession of the balance certificates, holding them in a secured area at all times, and MSTC will be provided a sample balance certificate for each issue.

MSTC will deliver to participating transfer agents nominee certificates and/or non-nominee certificates with the instructions to register the non-nominee certificates into the name of Kray & Co. and to include the securities evidenced by the non-nominee and/or nominee certificates in the balance certificate for the issue represented by such balance certificate. MSTC also may issue instructions to the transfer agent to register the transfer of securities evidenced by a balance certificate to a name other than Kray & Co. or to issue a certificate to a name other than Kray & Co.

After issuing a balance certificate, the transfer agent will increase or decrease the number of securities evidenced by the balance certificate so that at the end of each day it will evidence the number of securities equal to the previous balance plus any securities received from MSTC to be registered in the name Kray & Co. less any transfers and issuance of certificates in a name other than Kray & Co. The transfer agent will confirm in writing, on a daily or other periodic basis as MSTC may reasonably request, the number of securities evidenced by each balance certificate.

The obligations of the ATS transfer agents and MSTC will be set forth in a Balance Certificate Agreement (''Agreement'') executed by each ATS transfer agent and MSTC.[5] The Agreement provides that all shares or units or the amount of any obligations evidenced by the balance certificate which come into possession of the transfer agent pursuant to ATS will be the sole property of MSTC. The transfer agent will not obtain any legal or equitable right, title, or interest in or to such securities evidenced by the balance certificates.

The Agreement also provides that upon request from MSTC, the transfer agent will be obligated to deliver, within twenty-four hours, all securities evidenced by a balance certificate. If the transfer agent determines that any security held by it is lost, destroyed, stolen, or otherwise unaccounted for, the transfer agent must notify MSTC immediately and issue a replacement certificate.

The Agreement provides that the transfer agent must maintain an insurance policy in the form of a customary bankers blanket bond to cover any securities received from MSTC or held by the transfer agent pursuant to ATS. The bond must be in the maximum amount of one hundred million dollars. The Agreement further states that the transfer agent must provide annually to MSTC's satisfaction evidence that such blanket bond or comparable plan of insurance is in full effect.[6] When the transfer agent is responsible for the shipment of securities, the Agreement requires that the transfer agent provide adequate insurance coverage or require coverage from the carrier to cover losses that occur while in transit to and until received by MSTC. The amount of coverage must be equal to or exceed 110% of the fair market value of the securities shipped. The transfer agent is not obligated to deliver shares evidenced by balance certificates within twenty four hours of such a request from MSTC if the aggregate value of the shares to be delivered exceeds the amount of the bankers blanket bond. The transfer agent will instead deliver

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[1] 15 U.S.C. 78(b)(1) (1988).

[2] Securities Exchange Act Release No. 35424 (February 28, 1995), 60 FR 12258.

[3] For the purpose of the ATS program, ''balance certificates'' shall mean a certificate registered in the name Kray & Co., which is MSTC's nominee name, which evidences (1) record ownership by Kray & Co. of the number of shares or units of the issue shown from time to time on the records of the issuer thereof or (2) the duties of the issuer thereof to perform the obligations shown from time to time on the records of the issuer thereof, which records are maintained by a transfer agent, as being evidenced by such certificate, which certificate shall be retained by a transfer agent.

[4] For the purpose of the ATS program, the term ''nominee certificates'' shall mean a certificate of an issue registered in the name of Kray & Co. The term ''non-nominee certificate'' shall mean a certificate of an issue registered in a name other than Kray & Co.

[5] If a transfer agent employs a processor to perform the transfer agent's duties in ATS, the transfer agent and processor must enter into a separate agreement obligating the processor to perform the duties described in the Agreement. The transfer agent must notify MSTC if there is any material change to the terms of the agreement between the transfer agent and processor, if there is a termination or anticipated termination of the agreement, or if there is breach of the agreement or an event that will affect or might reasonably be expected to affect the processor's ability to perform any of its obligations under the agreement. MSTC only will permit a transfer agent to employ a processor as its agent if the transfer agent represents and warrants that it will bear any and all liability and responsibility for all securities held by, all actions taken by, and all obligations assigned to the processor with the same force and effect as if the securities were held by, the actions were taken by, or the obligations were those of the transfer agent.

[6] The transfer agent may limit, decrease, or cancel the blanket bond protection upon thirty days prior notice of such action to MSTC.

or make available the certificates as promptly as possible.[7]

Instructions from MSTC to register the transfer of securities evidenced by a balance certificate in a name other than MSTC will constitute a presentation of the balance certificate to the transfer agent under applicable law. The same warranties that would apply if MSTC physically presented the balance certificate to the transfer agent will be applicable in this instance.

II. Discussion

The Commission believes that MSTC's proposal is consistent with Section 17A of the Act[8] and specifically with Sections 17A(b)(3)(A) and (F).[9] Sections 17A(b)(3)(A) and (F) require that a clearing agency be organized and its rules be designed to facilitate and promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds in its custody or control or for which it is responsible.

Under MSTC's proposed rule change, an electronic instructions will replace the physical transfer of securities between MSTC and transfer agents. The proposal should help alleviate the inefficiencies associated with the physical transfer of securities and should help reduce the possibility of loss while securities are in transit between MSTC and the transfer agent. The transfer of securities will be factor and more efficient with the likely effect of reducing costs related to the preparation of written instructions and physical delivery of the securities. MSTC's proposed rule change also should help MSTC fulfill its safekeeping obligations by allowing MSTC to maintain securities in a form which should reduce the chances of loss and theft.

MSTC's proposed rule change requires that the transfer agent be insured by a customary bankers blanket bond which will cover any securities received from MSTC and/or held by the transfer agent or processor on behalf of MSTC under the Agreement. Where balance certificates have an aggregate current market value in excess of the maximum value of the bankers blanket bond, the transfer agent will not create or maintain certificates in excess of that value, other than any balance certificate, prior to delivery to MSTC. These insurance requirement should better enable MSTC to safeguard securities which are at the transfer agent or are in transit from the transfer agent to MSTC and should aid in the safekeeping of securities with a market value in excess of the bankers blanket bond.

MSTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because the ATS program allows for an electronic communication between brokers and transfer agents through MSTC. Such communication will be necessary for transfer agents to participate in the direct registration system (''DRS'') recently proposed by the Commission.[10] The Commission believes it is prudent to allow MSTC to begin use of the ATS as soon as possible in order that MSTC and its participants will have time to become proficient in using such a system before a DRS is implemented. The Commission also believes that accelerated approval will allow MSTC participants to utilize and to take full advantage in a more timely fashion of the benefits of the ATS service.

III. Conclusion

The Commission finds that MSTC's proposal is consistent with the requirements of the Act and particularly with Section 17A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–MSTC–94–21) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–6841 Filed 3–20–95; 8:45 am]

BILLING CODE 8010–01–M

[7] Before delivering to MSTC certificates with an aggregate current market value in excess of the maximum amount of the blanket bond, the transfer agent may not create or maintain certificates, other than any balance certificate, having a value in excess of the blanket bond.

[8] 15 U.S.C. 78q–1 (1988).

[9] 15 U.S.C. 78q–1(b)(3)(A) and (F) (1988).

[10] For a complete description of DRS, refer to Securities Exchange Act Release No. 35038 (December 1, 1994), 59 FR 63652 [File No. S7–34–94] (concept release soliciting comment on a transfer agent operated book-entry registration system).

[11] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35497; File No. SR–PSE–95–2]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange Incorporated Relating to Obligations for Regulatory Cooperation

March 15, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 8, 1995, the Pacific Stock Exchange, Incorporated (''PSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On March 3, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change, which is also described below.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its rules to require regulatory cooperation by members, member organizations, and others over whom the Exchange has jurisdiction pursuant to Rule 10.1(b) in connection with certain investigations and proceedings that are initiated by other exchanges or self-regulatory organizations. The text of the proposed rule change is as follow [new text is italicized]:

Rule 10.2

Regulatory Cooperation

(d) No member, member organization, person associated with a number or member organization, or other person or entity over whom the Exchange has jurisdiction pursuant to Rule 10.1(b), shall refuse to appear and testify before another exchange or self-regulatory organization in connection with a regulatory investigation, examination, or disciplinary proceeding or refuse to furnish documentary materials or other information or otherwise impede or delay such investigation, examination or disciplinary proceeding if the Exchange requests such information or testimony in connection with an inquiry resulting from an agreement entered

[1] *See* letter from Michael D. Pierson, Senior Attorney, PSE, to Jennifer S. Choi, Attorney, Division of Market Regulation, SEC, dated March 2, 1995. Amendment No. 1 adds .02 of the Commentary to the proposed rule change.

into by the Exchange pursuant to Rule 14.1. The requirements of this Rule 10.2(d) shall apply regardless of whether the Exchange has initiated an investigation pursuant to Rule 10.2(a) or a disciplinary proceeding pursuant to Rule 10.3.

Commentary

.01 The terms ''exchange'' and ''self-regulatory organization,'' as used in Rule 10.2(d), shall include, but are not limited to, any member of affiliate member of the Intermarket Surveillance Group.

.02 Any person or entity required to furnish information or testimony pursuant to Rule 10.2(d) shall be afforded the same rights and procedural protections as that person or entity would have if the Exchange had initiated the request for information or testimony.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend its Rule 10.2, relating to Exchange investigations. The proposed amendment would provide the Exchange with the authority to compel its members, member organizations, and others over whom the Exchange has jurisdiction pursuant to Rule 10.1(b) to testify or furnish documentary materials in connection with regulatory investigations or examinations by other exchanges or self-regulatory organizations under certain circumstances.

Specifically, the Exchange is proposing to adopt new Rule 10.2(d) to provide that no member, member organization, person associated with a member or member organization, or other person or entity over whom the Exchange has jurisdiction, shall refuse to appear and testify before another exchange or self-regulatory organization in connection with a regulatory investigation, examination, or disciplinary proceeding or refuse to furnish documentary materials or other information or otherwise impede or delay such investigation or examination. Under the proposed rule change, this requirement would apply whenever the Exchange requests such information or testimony in connection with an inquiry resulting from an agreement entered into by the Exchange pursuant to Rule 14.1 [2] The proposal further provides that the requirements of Rule 10.2(d) shall apply regardless of whether the Exchange has initiated an investigation pursuant to Rule 10.2(a) or a disciplinary proceeding pursuant to Rule 10.3.[3]

Under the proposed rule change, the Exchange defines in the Commentary the terms ''exchange'' and ''self-regulatory organization,'' for purposes of Rule 10.2(d), to include, but not be limited to, any member or affiliate member of the Intermarket Surveillance Group.[4] Moreover, the Exchange in .02 of the Commentary makes explicit that persons or entities, required to furnish information or testimony pursuant to a regulatory agreement, will be afforded the same rights and procedural protections that such persons or entities would have if the Exchange had initiated the request for information or testimony.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–PSE–95–2 and should be submitted by April 11, 1995.

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[2] Rule 14.1 provides that the Exchange may enter into agreements with domestic and foreign self-regulatory organizations providing for the exchange of information and other forms of mutual assistance for market surveillance, investigative, enforcement, and other regulatory purposes.

[3] Under the proposed rule, the Exchange would always act as an intermediary between another SRO and the Exchange member, member organization, or other designated person from whom information or testimony is being sought, for any inquiry made pursuant to an agreement under Rule 14.1. *See* letter from Michael D. Pierson, Senior Attorney, PSE, to Jennifer S. Choi, Attorney, Division of Market Regulation, SEC, dated March 2, 1995.

[4] On July 14, 1983, the Intermarket Surveillance Group (''ISG'') was formed to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Sharing Group Agreement, July 14, 1983. The members of ISG are the American Stock Exchange, Inc., the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Chicago Stock Exchange, Incorporated, the Cincinnati Stock Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–6937 Filed 3–20–95; 8:45 am]

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[Release No. 34–35479; File No. SR–Phlx–95–09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Listing Criteria for Equity Linked Notes (''ELNs'')

March 13, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 8, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. the Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Exchange Rule 803 to adopt listing standards for equity linked notes (''ELNs''). The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to add subsection (h) to Exchange Rule 803 to permit the Exchange to list and trade ELNs. ELNs are intermediate-term, hybrid securities, whose value is based in whole or in part, to the performance of a highly capitalized, actively traded U.S. common stock, non-convertible preferred stock, or foreign security that is traded in the U.S. in the form of sponsored American Depositary Receipts (''ADRs''), ordinary shares, or otherwise.[1] ELNs may pay periodic interest or may be issued as zero-coupon instruments with no payments to holders prior to maturity. ELNs may be subject to a ''cap'' on the maximum principal amount to be repaid to holders upon maturity, and they may feature a ''floor'' on the minimum principal amount paid to holders upon maturity. A specific issue of ELNs, for example, may provide holders with a fixed semi-annual interest payment, while capping the maximum amount to be repaid upon maturity at 135% of the issuance price, with no minimum floor guarantee on the principal to be repaid at maturity. Another issue of ELNs might offer lower semi-annual payments based upon a floating interest rate[2] with a minimum floor for the repayment of principal of 75% of the issuance price. ELNs will be treated as equity instruments for, among other purposes, margin requirements. According to the Phlx, the flexibility available to an issuer of ELNs permits the creation of securities which offer issuers and investors the opportunity to more precisely focus on a specific investment strategy.

There are four components to the proposed listing standards for ELNs: (1) ELN issuer standards; (2) ELN offering standards; (3) underlying linked security standards; and (4) limitations on the size of ELN offerings.

1. Issuer Listing Standards

The issuer must be listed on or be an affiliate of a company listed on a national securities exchange or the Nasdaq National Market. Each issuer must also have a minimum tangible net worth of $150 million. Finally, the market value of an ELN offering, when combined with the market value of all other ELN offerings previously completed by the issuer and traded on a national securities exchange or through Nasdaq may not be grater than 25% of the issuer's tangible net worth at the time of issuance.

2. Offering Standards

In order to ensure adequate liquidity in the markets for ELNs, each issuance of an ELN must have: (1) A minimum public distribution of one million ELNs; (2) a minimum of 400 holders of the ELNs, unless the ELNs are traded in $1,000 denominations, in which case thee is no minimum number of holders required; (3) a minimum market value of $4 million; and (4) a term to maturity of two to seven years (although ELNs linked to a non-U.S. security (including a sponsored ADR) can not have a term longer than three years).

3. Underlying Linked Security Standards

In order to help ensure that ELNs will not have a disruptive effect on the market for the underlying securities, the linked securities must have sufficiently large market capitalizations and high trading volumes. Specifically, an underlying security must have: (1) A minimum market capitalization of $3 billion and trading volume in the United States of at least 2.5 million shares in the 12-month period preceding the listing of the ELN; (2) a minimum market capitalization of $1.5 billion and trading volume in the United States of at least 20 million shares in the 12-month period preceding the listing of the ELN; or (3) a minimum market capitalization of $500 million and trading volume in the United States of at least 80 million shares in the 12-month period preceding the listing of the ELN. In addition, if an issuer proposes to issue ELNs on a security that does not meet the market capitalization and trading volume standards set forth above, the Phlx, with the concurrence of the staff of the Commission, may evaluate the trading volume, public float, and market capitalization of that security, as well as other relevant factors, and determine on a case-by-case basis that it is appropriate to list ELNs overlying that security. The Phlx will submit a rule filing pursuant to Section 19(b) of the Act if so required by the Commission if significant regulatory concerns are raised by a proposed ELN offering that does not meet the above market capitalization and trading volume standards.[3]

The issuer of the linked security must be a reporting company under the Act and the underlying linked security must be traded on a national securities exchange or through Nasdaq and be

[1] The Phlx will notify the Commission if an issue of ELNs is structured so that it is convertible prior to maturity and will submit a rule filing pursuant to Section 19(b) of the Act prior to listing ELNs with such terms if the Commission so requires.

[2] The Phlx will notify the Commission if an issue of ELNs provides for periodic interest payments to holders based on a floating rate and will submit a rule filing pursuant to Section 19(b) of the Act prior to listing ELNs with such terms if the Commission so requires.

[3] In this connection, the Commission notes that any proposal to list an ELN linked to a security with a market capitalization of less than $500 million would raise significant regulatory concerns for which a Section 19(b) rule filing would be required.

subject to last sale reporting pursuant to Rule 11Aa3–1 under the Act. Additionally, ELNs can be linked to certain non-U.S. companies [4] subject to reporting requirements under the Act whose securities are traded in the U.S. either as ordinary shares or sponsored ADRs, provided there are at least 2,000 holders of the underlying linked security. For ELNs linked to non-U.S. securities (including sponsored ADRs) either: (1) The Exchange must also have in place a comprehensive surveillance agreement with the primary exchange in the home country where the security underlying the ELN is primarily traded (or in the case of sponsored ADRs, on the primary exchange where the security underlying the ADR is traded); or (2) the combined trading volume of the underlying security and other related securities occurring in the U.S. market represents (on a share equivalent basis) at least 50% of the combined worldwide trading volume in the underlying security, other related securities, and other classes of common stock related to the underlying security over the six month period preceding the date of listing of the ELN. The U.S. market includes trading only on the U.S. self-regulatory organizations included in the Intermarket Surveillance Group [5] and linked through the Intermarket Trading System.[6]

4. Limitations of Size of Particular ELN Offerings

Without the concurrence of the staff of the Commission, the issuance of ELNs relating to any underlying U.S. security may not exceed five percent of the total outstanding shares of such underlying security. Further, without the concurrence of the staff of the Commission, the issuance of ELNs relating to any non-U.S. security (including sponsored ADRs) that is traded in the U.S. and is issued by a non-U.S. company subject to U.S. reporting requirements may not exceed: (1) 2% of the total shares outstanding worldwide provided at least 30% of the worldwide trading volume in the underlying security occurs in the U.S. market during the six month period preceding the date of listing of the ELN; (2) 3% of the total shares outstanding worldwide provided at least 50% of the worldwide trading volume in the underlying security occurs in the U.S. market during the six month period preceding the date of listing of the ELN; or (3) 5% of the total shares outstanding worldwide provided at least 70% of the worldwide trading volume in the underlying security occurs in the U.S. market during the six month period preceding the date of listing of the ELN. An ELN may not be linked to a non-U.S. security (including a sponsored ADR) where such security and all related securities had less than 30% of the worldwide trading volume occur in the U.S. during the six month period preceding the date of listing of the ELN. The Exchange may determine, on a case-by-case basis and with the concurrence of the staff of the Commission, to approve for listing ELNs that relate to more than these allowable percentages.[7]

Finally, because ELNs are linked to price movements in another security, the Exchange proposes three additional safeguards that are designed to satisfy the investor protection concerns raised by the trading of ELNs. First, for each ELN issue, the Exchange will distribute a circular to its membership [8] providing guidance concerning member firm compliance responsibilities (including suitability recommendations and account approval) when handling transactions in ELNs. Second, members will have a duty of due diligence pursuant to Exchange Rule 746 to learn the essential facts relating to every customer trading ELNs prior to their first ELN transaction. Third, pursuant to Exchange Rule 747, a member must approve a customer's account for trading ELNs prior to the completion of the customer's first ELN transaction.

The Phlx represents that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) [9] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest. Specifically, the Phlx believes the proposal strikes an appropriate balance between the Phlx's need to adapt and respond to innovations in the securities markets and the Phlx's concomitant need to ensure the protection of investors and the maintenance of fair and orderly markets. The Phlx believes the proposed numerical, quantitative listing standards should ensure that only substantial companies capable of meeting their contingent obligations created by ELNs are able to list such products on the Exchange. Similarly, by providing for the distribution of circulars to the membership concerning member firm compliance responsibilities and requirements, the Phlx believes the proposal addresses any potential sales practice concerns that may arise in connection with ELNs. The Phlx also believes that the trading of ELNs will provide investors with important investment and hedging benefits that will serve to satisfy better their investment and portfolio management needs.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

[4] A non-U.S. company is any company formed or incorporated outside of the United States.

[5] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG, (and accordingly, of the U.S. market) are: the American Stock Exchange, Inc. (''Amex''); the Boston Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc. (''CBOE''); the Chicago Stock Exchange, Inc.; the Cincinnati Stock Exchange, Inc.; the National Association of Securities Dealers, Inc. (''NASD''), the New York Stock Exchange, Inc. (''NYSE''); the Pacific Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options and the underlying stock and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (*e.g.*, the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

[6] ITS is a communications system designed to facilitate trading among competing markets by providing each market with order routing capabilities based on current quotation information. The system links the participant markets and provides facilities and procedures for: (1) the display of composite quotation information at each participant market, so that brokers are able to determine readily the best bid and offer available from any participant for multiply trading securities; (2) efficient routing of orders and sending administrative messages (on the functioning of the system) to all participating markets; (3) participation, under certain conditions, by members of all participating markets in opening transactions in those markets; and (4) routing orders from a participating market to a participating market with a better price.

[7] As with the market capitalization and trading volume requirements, the Commission notes that based on the proposed facts, the Phlx may be required to submit a rule filing to the Commission pursuant to Section 19(b) of the Act to address regulatory issues raised by any Phlx proposal to list ELNs related to more than the allowable percentages of outstanding shares of the underlying security.

[8] The Commission notes that the circular must be in a form approved by the Commission.

[9] 15 U.S.C. 78f(b)(5) (1988).

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from February 22, 1995, it has become effective pursuant to Section 19(b) (3) (A) of the Act and Rule 19b–4 (e) (6) thereunder. The proposed ELN listing standards are virtually identical to the listing standards for equity linked notes previously approved by the Commission for NYSE,[10] the Amex,[11] the CBOE,[12] and the NASD.[13] Accordingly, because the Commission has already approved similar rules for other exchanges, the Phlx believes that summary effectiveness of the proposed rule change will not significantly affect the protection of investors or the public interest and will not impose any significant burden on competition.[14] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–95–09 and should be submitted by April 11, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Johathan G. Katz,

Secretary.

[FR Doc. 95–6842 Filed 3–20–95; 8:45 am]

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[10] *See* Securities Exchange Act Release Nos. 33468 (January 13, 1994), 59 FR 3387 (January 21, 1994) (order originally approving the listing of ELNs on the NYSE); 33841 (March 31, 1994), 59 FR 16671 (April 7, 1994) (order approving revised market capitalization and trading volume requirements for the listing of ELNs on the NYSE); 34545 (August 18, 1994), 59 FR 43877 (August 25, 1994) (order approving the listing of ELNs on the NYSE linked to securities issued by non-U.S. companies).

[11] *See* Secruities Exchange Act Release Nos. 32343 (May 20, 1993), 58 FR 30833 (May 27, 1993) (order originally approving the listing of ELNs on the Amex); 33328 (December 13, 1993), 58 FR 66041 (December 17, 1993) (order approving revised market capitalization and trading volume requirements for the listing of ELNs on the Amex); 34549 (August 18, 1994), 59 FR 43873 (August 25, 1994) (order approving the listing of ELNs on the Amex linked to securities issued by non-U.S. companies).

[12] *See* Securities Exchange Act Release No. 34759 (September 30, 1994), 59 FR 50939 (October 6, 1994).

[13] *See* Securities Exchange Act Release No. 34758 (September 30, 1994), 59 FR 50943 (October 6, 1994).

[14] The Commission notes that prior to listing any ELNs, the Exchange will be required to obtain approval from the staff of the Commission concerning the Exchange's surveillance procedures applicable to the trading ELNs.

[15] 17 CFR 200.30–3 (a)(12) (1994).

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Conversion Industries, Inc., Common Stock, No Par Value) File No. 1–10249

March 15, 1995

Conversion Industries, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the American Stock Exchange, Inc. (''Amex'' or ''Exchange'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, the Company received a letter dated October 11, 1994, from the Exchange stating that it was considering delisting the Security because it believed that the Company had violated the Exchange's listing agreement and disclosure policies. The Company responded to the letter in writing to the Exchange dated November 3, 1994. In addition, the Company attended on November 3, 1994, a conference at the Exchange in which it made an extensive oral submission for the Exchange's consideration. Thereafter, the Company submitted voluminous documents in response to requests by the Exchange.

According to the Company, on November 23, 1994, the Company received a letter from the Exchange stating that the Exchange had made a determination to delist the Security.

Although the Company initially elected to appeal the Exchange's decision to delist the Security to the Exchange's Board of Governors, the Company has decided to settle matters by removing the Security from the Exchange. The Company believes that due to the impasses between the Exchange and the Company and the anticipated large expenditures of money and management time which would be required before a final resolution of the matters at issue could be obtained, it is in the best interest of the Company and its shareholders that matters be settled by delisting the Security from the Exchange.

The Exchange has also agreed that it would be in the best interest of the Exchange and the investing public to resolve this issue between the Company and the Exchange in this manner.

Any interested person may, on or before April 6, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–6941 Filed 3–20–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20958; File No. 812–9308]

The Paul Revere Variable Annuity Insurance Company, et al.

March 15, 1995.

AGENCY: Securities and Exchange Commission (''SEC'' or the ''Commission'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: The Paul Revere Variable Annuity Insurance Company (''Paul Revere''), Paul Revere Separate Account One (the ''Account''), certain separate accounts that may be established by Paul Revere in the future to support certain variable deferred annuity contracts issued by Paul Revere (the ''Other Accounts'', collectively, with the Account, the ''Accounts'') and Marsh & McLennan Securities Corporation (''Marsh McLennan'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting Paul Revere to deduct from the assets of the Accounts the mortality and expense risk charge imposed under certain variable annuity contracts issued by Paul Revere (the ''Existing Contracts'') and under any other variable annuity contracts issued by Paul Revere which are materially similar to the Existing Contracts (the ''Other Contracts'', together, with the Existing Contracts, the ''Contracts''.

FILING DATE: The application was filed on October 26, 1994 and amended and restated on January 23, 1995. Applicants represent that an amendment to the application will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on April 10, 1995 and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, by certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants: Judith A. Hasenauer, Blazzard, Grodd & Hasenauer, P.C., 943 Post Road East, P.O. Box 5108, Westport, Connecticut 06881.

FOR FURTHER INFORMATION CONTACT: Barbara J. Whisler, Senior Attorney, or Wendy F. Friedlander, Deputy Chief, both at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application, the complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. Paul Revere, a stock life insurance company organized under Massachusetts law, is a wholly owned subsidiary of The Paul Revere Life Insurance Company, a Massachusetts corporation. The Paul Revere Life Insurance Company is wholly owned by the Paul Revere Corporation (the ''Corporation''), also a Massachusetts corporation. The application states that, prior to October 26, 1993, the Corporation was wholly owned by Textron, Inc., a Delaware corporation. On that date, Textron, Inc. sold 17% of the Corporation to the public and retained 83% of the outstanding shares of the Corporation. The Account, established August 18, 1994 under Massachusetts law, is registered with the Commission as a unit investment trust. The Account will fund the Existing Contracts issued by Paul Revere. Applicants incorporate the registration statement on Form N–4 for the Account and the Existing Contracts (File No. 33–83320) into the application by reference. The Account is divided into a number of subaccounts, each of which invests in an underlying investment option. All of the investment options are registered with the Commission under the 1940 Act as open end management investment companies.

2. Marsh McLennan, a wholly owned subsidiary of Seabury & Smith, Inc., which his, in turn, a wholly owned subsidiary of Marsh & McLennan Companies, Inc., is a broker dealer registered under the Securities Exchange Act of 1934 and a member of the National Association of Securities Dealers, Inc. Marsh McLennan will serve as the distributor of the Contracts.

3. The Existing Contracts are individual flexible premium variable annuity deferred contracts which provide for a guaranteed death benefit during the accumulation phase. Paul Revere proposes to market the Existing Contracts to members of various associations that sponsors benefit programs. The minimum initial premium is $2,500 and the minimum for subsequent premiums is $500. If the owner of an Existing Contract has elected the automatic premium option, a minimum payment of $200 will be accepted. The maximum total premium payments which Paul Revere will accept is $1,000,000. The application states that there are no charges for sales load. Therefore, neither premiums nor amounts withdrawn are subject to a charge for sales load.[1]

4. Applicants state that the current practice of Paul Revere is to deduct for premium taxes when those taxes become due and payable to the states. Thus, premium taxes relating to a Contract may be deducted from either the premium payments made or the value of the Contract. The application states that premium taxes generally range from 0% to 4%.

5. Paul Revere presently permits unlimited transfers. The owner of an Existing Contract may transfer all or part of the interest in a subaccount to another subaccount; or, during annuitization, from a subaccount to the general account of Paul Revere. These transfers are permitted without charge so long as the designated number of transfers has not been exceeded. If transfers are made in excess of the free number of transfers, presently unlimited, Paul Revere will deduct a transfer fee from the amount transferred equal to the lesser of $25 or 2% of the amount transferred. The minimum amount which may be transferred is $500 (from one or multiple subaccounts); however, the entire interest in the subaccount must be transferred, if, prior to or as a result of the transfer, the interest in the subaccount is less than $500.[2]

6. On each Contract anniversary, Paul Revere deducts a Contract maintenance charge of $25 from Contracts with a Contract value of less than $25,000. During annuitization, the Contract maintenance charge is $2.00 per month for all Contracts and is deducted from annuity payments. The application states that the fee is to reimburse Paul Revere for its administrative expenses. Applicants further state that the charge has been set at a level so that, when

[1] Applicants represent that an amendment to the application will be filed during the notice period and that the amendment will include the representation that the Contracts are not subject to a charge for sales load.

[2] Applicants represent that an amendment to the application will be filed during the notice period and that the amendment will indicate the requirements for transfers from one or more subaccounts.

taken together with the annual administrative charge, Paul Revere will not make a profit from the two charges assessed for administration.

7. Paul Revere deducts an annual administrative charge equal to .15% of the average daily net asset value of the Account. Applicants represent that this charge, together with the Contract maintenance charge, is to reimburse Paul Revere for expenses incurred in establishing and maintaining both the Account and the Contracts. Applicants also state that Paul Revere does not intend to profit from this charge and that Paul Revere will monitor the charge to ensure that it does not exceed expenses. Applicants state that they will rely upon Rule 265a–1 under the 1940 Act in deducting both the Contract maintenance charge and the annual administrative charge.

Paul Revere will impose a daily charge equal to an annual effective rate of .80% of the value of the net assets of the Account to compensate Paul Revere for assuming certain mortality and expense risks in connection with the Contracts. Applicants state that approximately .50% of the .80% charge is attributable to mortality risk while approximately .30% is attributable to expense risk. The application states that Paul Revere reserves the right to increase the charge to a maximum of 1.25%. If the mortality and expense risk charge is insufficient to cover actual costs of the risks undertaken, Paul Revere will bear the loss. Conversely, if the charge exceeds costs, this excess will be profit to Paul Revere and will be available for any corporate purpose, including payment of expenses relating to the distribution of the Contracts. The application states that Paul Revere expects a profit from the mortality and expense risk charge.

9. Applicants state that the mortality risk borne by Paul Revere consists of: (a) The risk of guaranteeing to make monthly annuity payments in accordance with the annuity option selected by the Contract owner regardless of how long the annuitant may live; (b) the risk of guaranteeing the annuity purchase rates, for either a fixed or a variable annuity, for the annuity options under the Contracts; and (c) the risk of guaranteeing a death benefit.

10. Applicants state that Paul Revere assumes an expense risk under the Contracts. According to Applicants, this is the risk that the charges for administrative services under the Contracts will be insufficient to cover actual administrative expenses.

Applicants' Legal Analysis and Conditions

1. Applicants request that the Commission, pursuant to Section 6(c) of the 1940 Act, grant the exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act in connection with Applicants' assessment of the daily charge for the mortality and expense risks under the Contracts. Applicants state that the requested extension of relief to the Other Accounts and the Other Contracts is appropriate in the public interest. Applicants opine that the relief will promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications and will, therefore, reduce administrative expenses and maximize efficient use of resources. Applicants assert that the delay and expense involved in having to repeatedly seek exemptive relief would impair the ability of Paul Revere to take advantage effectively of business opportunities as those opportunities arise. Applicants posit that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. Finally, Applicants state that were Paul Revere required to seek repeated exemptive relief with respect to the issues addressed in the application, no additional benefit or protection would be provided to investors through the redundant filings.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in pertinent part, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself.

3. Applicants assert that the charge for morality and expense risks is reasonable compensation for the risks assumed.

4. Applicants represent that the proposed charge of .80% and the maximum charge of 1.25% for the mortality and expense risks assumed by Paul Revere is within the range of industry practice with respect to comparable annuity products. Applicants state that this representation is based upon an analysis of publicly available information regarding mortality risks, taking into consideration such factors as: the guaranteed annuity purchase rates; the expense risks, the estimated costs for product features; and the industry practice with respect to comparable contracts. Applicants represent that Paul Revere will maintain at its principal office, available to the Commission, a memorandum setting forth in detail the products analyzed and the methodology and results of the analysis by Paul Revere.

5. Applicants assess no charge for sales load. To the extent that distribution costs are not covered, Paul Revere will recover its distribution costs from the assets of the general account. These assets may include that portion of the mortality and expense risk charge which is profit to Paul Revere. Applicants represent that Paul Revere has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Account and the owners of the Contracts. The basis for this conclusion is set forth in a memorandum which will be maintained by Paul Revere at its principal office and will be made available to the Commission.[3]

6. Paul Revere also represents that the Accounts will invest only in management investment companies which undertake, in the event such company adopts a plan under Rule 12b–1 of the 1940 Act to finance distribution expenses, to have such plan formulated and approved by either the company's board of directors of the board of trustees, as applicable, a majority of whom are not interested persons of such company within the meaning of the 1940 Act.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–6935 Filed 3–20–95; 8:45 am]

BILLING CODE 8010–01–M

[3] Applicants represent that an amendment to the application will be filed during the notice period and that such amendment will include the representations contained in paragraph 5 of this notice.

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Polaris Industries, Inc., Common Stock, $.01 Par Value) File No. 1–11411

March 15, 1995.

Polaris Industries, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the American Stock Exchange, Inc. (''Amex'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, in addition to being listed on the Amex and the Pacific Stock Exchange, Inc. (''PSE'') the Security is listed on the New York Stock Exchange, Inc. (''NYSE''). The Security commenced trading on the NYSE at the opening of business on February 24, 1995, and concurrently therewith the Security was suspended from trading on the Amex.

In making the decision to withdraw the Security from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the listing of its securities on the NYSE, the Amex and the PSE. The Company does not see any particular advantage in the trading of the Security in both the Amex and the NYSE.

Any interested person may, on or before April 6, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–6940 Filed 3–20–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20960/812–9352]

The Roulston Family of Funds, et al.; Notice of Application

March 16, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: The Roulston Family of Funds (''Roulston Funds''), the Advisors' Inner Circle Fund (''Advisors' Fund), and Roulston & Company, Inc. (''Roulston'').

RELEVANT ACT SECTIONS: Order requested under section 17(b) granting an exemption from section 17(a).

SUMMARY OF APPLICATION: Applicants request an order to permit the series of the Roulston Funds to acquire all of the assets of corresponding series of the Advisors' Fund, in exchange for shares of the Roulston Funds series. Because of certain affiliations, the funds may not rely on rule 17a–8 under the Act.

FILING DATES: The application was filed on December 9, 1994 and amended on February 9, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 10, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Roulston Funds and Roulston, 4000 Chester Avenue, Cleveland, Ohio 44103; Advisors' Fund, 2 Oliver Street, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Senior Attorney, at (202) 942–0571, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Roulston Funds, an Ohio business trust, is registered as an open-end management investment company. Roulston Midwest Growth Fund (''Roulston 1''), Roulston Growth and Income Fund (''Roulston 2''), and Roulston Government Securities Fund (''Roulston 3'') (collectively, the ''Acquiring Funds'') are series of the Roulston Funds. Roulston Research Corporation, a wholly-owned subsidiary of Roulston, is the principal underwriter to the Roulston Funds and receives no compensation for serving in such capacity. Roulston Funds, however, has adopted a rule 12b–1 plan pursuant to which Roulston Research will provide certain shareholder services and will be paid a fee at an annual rate of .25% of the average aggregate net asset value of shares held in customer accounts during the period for which Roulston Research provides such services. The Fund/Plan Services Inc. is the administrator and transfer agent to the Roulston Funds.

2. Advisors' Fund, a Massachusetts business trust, is registered as an open-end management investment company. Advisors' Fund has fifteen series. Three of these series are Roulston Midwest Growth Fund (''Advisors 1''), Roulston Growth and Income Fund (''Advisors 2''), and Roulston Government Securities Fund (''Advisors 3'') (collectively, the ''Acquired Funds''). SEI Financial Services Company, a wholly-owned subsidiary of SEI Corporation (''SEI''), is the principal underwriter to the Advisors' Fund and receives no compensation for serving in such capacity. SEI Financial Management Corporation, a wholly-owned subsidiary of SEI, provides administrative and shareholder services for the Acquired Funds. Supervised Service Company, Inc. serves as transfer agent and dividend disbursing agent for the Acquired Funds.

3. Roulston serves as investment adviser to both the Acquiring Funds and Acquired Funds. Thomas H. Roulston, chairman and a director of Roulston, together with members of his immediate family, own a controlling interest in Roulston and beneficially owns more than 5% of the outstanding shares of Advisors 2 and Advisors 3.

4. Roulston 1, Roulston 2, and Roulston 3 were created to acquire the assets and liabilities respectively of Advisors 1, Advisors 2, and Advisors 3. In exchange for these assets, each Acquired Fund will receive shares of the respective Acquiring Fund having an aggregate net asset value equal to the value of net assets the Acquired Fund exchanged. After the exchange, each

Acquiring Fund will liquidate and distribute *pro rata* to its respective unitholders the shares of the Acquiring Fund it received pursuant to the reorganization. Unitholders of the Acquired Funds will not incur any sales load in connection with their acquisition of Acquiring Fund shares.

5. In connection with the proposed reorganization, the board of trustees of Roulston Funds, including a majority of its disinterested trustees, approved an agreement and plan of reorganization (the ''Plan'') on October 20, 1994. The board of trustees of the Advisors' fund, including a majority of its disinterested trustees, approved the Plan on November 14, 1994. In assessing the Plan, each board considered the following factors: (a) The compatibility of the objectives, policies and restrictions of the respective Acquiring Funds and Acquired Funds, (b) the terms and conditions of the Plan, (c) the tax-free nature of the reorganization, and (d) the expense ratios of the Acquiring Funds and Acquired Funds, including certain fee waivers.[1] In addition, applicants represent that a principal business consideration influencing Roulston's recommendation of the reorganization, and the Roulston board's approval of the reorganization, was their belief, based in part on input from unitholders, that services to unitholders of the Acquired Funds, particularly transfer agency services, could be more effectively structured, delivered, and monitored in a different organizational setting.

6. The Acquired Funds will submit the Plan to their unitholders for approval at a meeting scheduled for March 24, 1995. Applicants will deliver to unitholders of the Acquired Funds a prospectus/proxy statement describing the Plan prior to their vote. In addition to unitholder approval, the consummation of the reorganization is conditioned upon, among other things, receipt from the SEC of the order requested herein.

7. The expenses of the reorganization are to be paid by the party directly incurring such expenses, subject to certain exceptions set forth in the Plan. Applicants estimate the expenses of the reorganization to be $70,000, of which Roulston Funds will pay $50,000 and Advisors' Fund will pay $20,000.

[1] Roulston and Roulston Research have agreed to waive their respective investment advisory and 12b–1 fees and absorb certain expenses for one year following the reorganization to the extent necessary to ensure that the expense ratios of the Acquiring Funds do not exceed certain limits.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in pertinent part, prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from selling to or purchasing from such registered company, any security or other property. Section 17(b) provides that the SEC may exempt a transaction from section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all the assets involving registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors/trustees and/or common officers provided that certain conditions are satisfied. Applicants may not rely on rule 17a–8. Thomas H. Roulston may be an affiliated person of the Acquiring Funds because he may indirectly control the Acquiring Funds by owning, together with his immediate family, a controlling interest in Roulston. Mr. Roulston is also an affiliated person of two of the Acquired Funds because he beneficially owns more than 5% of the outstanding shares of these funds. Therefore, the Acquiring Funds may be deemed affiliated with the Acquired Funds for reasons other than those set forth in the rule.

3. Applicants, however, believe that the terms of the reorganization satisfy the standards of section 17(b). Each Fund's board, including the disinterested trustees, has reviewed the terms of the reorganization and have found that participation in the reorganization as contemplated by the Plan is in the best interests of the Acquiring Funds and Acquired Funds, and that the interests of the unitholders of each Fund will not be diluted as a result of the reorganization. Each board also considered the fact that the Acquiring Funds were established for the express purpose of acquiring the assets of the Acquiring Funds, and, therefore, the objectives of each Acquiring Fund are identical or substantially similar to that of its corresponding Acquired Fund. Applicants further submit that the terms of the reorganization, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–6936 Filed 3–20–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986):

Bahrain
Iraq
Jordan
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Republic of

Dated: March 13, 1995.

Joseph Guttentag,

International Tax Counsel.

[FR Doc. 95–6973 Filed 3–20–95; 8:45 am]

BILLING CODE 4810–25–M

Internal Revenue Service

Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 1995

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Publication of inflation adjustment factor and reference prices for calendar year 1995 as required by section 45(d)(2)(A) (26 U.S.C. 45(d)(2)(A)).

SUMMARY: The 1995 inflation adjustment factor and reference prices are used in determining the availability of the renewable electricity production credit under section 45(a).

DATES: The 1995 inflation adjustment factor and reference prices apply to calendar year 1995 sales of kilowatt hours of electricity produced in the United States or a possession thereof from qualified energy resources.

INFLATION ADJUSTMENT FACTOR: The inflation adjustment factor for calendar year 1995 is 1.0430.

REFERENCE PRICES: The reference prices for calendar year 1995 are 5.4¢ per kilowatt hour for facilities producing electricity from wind and 0¢ per kilowatt hour for facilities producing electricity from closed-loop biomass. The reference price for electricity produced from closed-loop biomass, as defined in section 45(c)(2), is based on a determination under section 45(d)(2)(C) that in calendar year 1994 there were no sales of electricity generated from closed-loop biomass energy resources under contracts entered into after December 31, 1989.

Because the 1995 reference prices for electricity produced from wind and closed-loop biomass energy resources do not exceed 8¢ multiplied by the inflation adjustment factor, the phaseout of the credit provided in section 45(b)(1) does not apply to electricity sold during calendar year 1995.

CREDIT AMOUNT: As required by section 45(b)(2), the 1.5¢ amount in section 45(a)(1) is adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1¢, such amount is rounded to the nearest multiple of 0.1%. Under the calculation required by section 45(b)(2), the renewable electricity production credit for calendar year 1995 under section 45(a) is 1.6¢ per kilowatt hour on the sale of electricity produced from closed-loop biomass and wind energy resources.

FOR FURTHER INFORMATION CONTACT: David A. Selig, IRS, CC:DOM:P&SI:5, 1111 Constitution Ave., NW., Washington, DC 20224, (202) 622–3040 (not a toll-free call).

Judith C. Dunn,

Associate Chief Counsel (Domestic).

[FR Doc. 95–6923 Filed 3–20–95; 8:45 am]

BILLING CODE 4830–01–U

Office of Thrift Supervision

[AC–19; OTS No. 12609]

American Savings Association, Portsmouth, Ohio; Approval of Conversion Application

Notice is hereby given that on March 15, 1995, the Deputy Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of American Savings Association, Portsmouth, Ohio, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: March 16, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–6921 Filed 3–20–95; 8:45 am]

BILLING CODE 6720–01–M

[AC–18; OTS No. 03952]

First Federal Savings and Loan Association of Ashland, Kentucky, Ashland, Kentucky; Approval of Conversion Application

Notice is hereby given that on February 13, 1995, the Deputy Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of First Federal Savings and Loan Association of Ashland, Kentucky, Ashland, Kentucky, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: March 16, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–6920 Filed 3–20–95; 8:45 am]

BILLING CODE 6720–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 54

Tuesday, March 21, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Tuesday, March 21, 1995, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Iron Powered Supplement Petition PP 94–1

The staff will brief the Commission on options for Commission action on petition PP 94–1 from Douglas Ingoldby of Nutritech, Inc. requesting an exemption from the child-resistant packaging requirements for certain iron-containing dietary supplement powders.

For a recorded message containing the latest agenda information, call (303) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: March 15, 1995.

Sadye E. Dunn,

Secretary.

[FR Doc. 95–7081 Filed 3–17–95; 3:41 pm]

BILLING CODE 6355–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

DATE: March 29–31, 1995.

PLACE: United States Court of Appeals for the Federal Circuit (''Federal Circuit''), Courtroom No. 1, 717 Madison Place, N.W., Washington, D.C.; and Room 6005, 1730 K Street, N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following matter in open session at Federal Circuit in accordance with the schedule and division of issues set forth below:

In Re: Contents of Respirable Dust Sample Alteration Citations, and Keystone Coal Mining Corp., Master Docket No. 91–1 and Docket Nos. PENN 91–451–R, etc. (issues include whether the judge erred in his framing of the Secretary's burden of proof and in finding that the Secretary failed to carry his burden of proving that the weight of 75 cited filters from the Urling No. 1 Mine was intentionally altered by Keystone Coal Mining Corp.)

Wednesday, March 29, 1995

Oral argument will begin at 9:30 a.m. at the Federal Circuit addressing the issues of Burden of Proof and Scientific Evidence.

An afternoon session of oral argument will begin at 2:00 p.m. at the Federal Circuit addressing the issues of Statistical Evidence, Credibility Resolutions and Exclusion of Evidence of Criminal Tampering in Other Cases.

Following oral argument, the Commission will consider this matter in Room 6005, 1730 K Street, N.W., Washington, D.C. This meeting will be closed pursuant to 5 U.S.C. § 552b(c)(10).

Thursday, March 30, 1995

Oral argument will begin at 10:00 a.m. at the Federal Circuit and will cover issues not previously addressed.

At the completion of the morning session, the Commission will determine whether an afternoon session will be necessary. If further argument is deemed necessary, the session shall commence at 2:00 p.m. at the Federal Circuit.

Following oral argument, the Commission will consider and act upon this matter in Room 6005, 1730 K Street, N.W., Washington, D.C. This meeting will be closed pursuant to 5 U.S.C. § 552b(c)(10).

Friday, March 31, 1995

At 10:00 a.m., the Commission will consider and act upon this matter at Room 6005, 1730 K Street, N.W., Washington, D.C. This meeting will be closed pursuant to 5 U.S.C. § 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Dated: March 15, 1995.

Jean H. Ellen,

Chief of Docket Clerk.

[FR Doc. 95–7086 Filed 3–17–95; 3:43 pm]

BILLING CODE 6735–01–M

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., April 17, 1995.

PLACE: On board *Mississippi V* at City Front, Cape Girardeau, MO.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by President of the Commission on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in Memphis District.

TIME AND DATE: 9:00 a.m., April 18, 1995.

PLACE: On board *Mississippi V* at City Front, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by President of the Commission on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; and (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project.

TIME AND DATE: 3:00 p.m., April 19, 1995.

PLACE: On board *Mississippi V* at City Front, Vicksburg, MS.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by President of the Commission on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in Vicksburg District.

TIME AND DATE: 9:00 a.m., April 21, 1995.

PLACE: On board *Mississippi V* at Corps of Engineers District Depot Facility, Foot of Prytania Street, New Orleans, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by President of the Commission on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in New Orleans District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Noel D. Caldwell, telephone 601–634–5766.

Noel D. Caldwell,

Executive Assistant, Mississippi River Commission.

[FR Doc. 95–7087 Filed 3–17–95; 3:44 pm]

BILLING CODE 3710–GX–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of March 20, 27, April 3, and 10, 1995.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of March 20

Wednesday, March 22

10:00 a.m.
Briefing on Status of Action Plan for Fuel Cycle Facilities (Public Meeting)
(Contact: John Hickey, 301–415–7192)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of March 27—Tentative

Tuesday, March 28

2:00 p.m.
Briefing on Status of Reactor Regulatory Reform Initiatives (Public Meeting)
(Contact: Gene Imbro, 301–415–2969)

Wednesday, March 29

10:00 a.m.
Briefing by National Academy of Sciences on Status of Independent Review of Medical Use Program (Public Meeting)
(Contact: Pat Rathbun, 301–415–7178)
2:00 p.m.
Briefing on Lessons Learned from Enhanced Participatory Rulemakings (Public Meeting)
(Contact: Chip Cameron, 301–415–1642)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
(Please Note: This item will be affirmed immediately following the conclusion of the preceding meeting.)
a. Final Rule to Eliminate Requirement for Prior Commission Approval for a Specific ISFSI License at a Reactor Site (10 CFR Part 72) (Tentative)
b. Final Rule Revising 10 CFR Part 110, Import and Export of Radioactive Waste (Tentative)
(Contact: Andrew Bates, 301–415–1963)

Week of April 3—Tentative

Wednesday, April 5

10:00 a.m.
Briefing on PRA Implementation Plan (Public Meeting)
(Contact: Edward Butcher, 301–415–3183)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of April 10—Tentative

There are no meetings scheduled for the Week of April 10.

Note: Affirmation sessions are initially scheduled and announced to the public of a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system will also become available in the near future. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc. gov or gkt@nrc. gov.

Dated: March 17, 1995.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 95–7070 Filed 3–17–95; 2:10 pm]

BILLING CODE 7590–01–M

Federal Register

Tuesday
March 21, 1995

Part II

Department of Energy

10 CFR Part 1003 et al.

Office of Hearings and Appeals Procedural Regulations; Payments Equal to Taxes Provisions of the Nuclear Waste Policy Act of 1982, As Amended, Interpretation and Procedures; Final Rules

DEPARTMENT OF ENERGY

10 CFR Part 1003

RIN 1901–AA55

Office of Hearings and Appeals Procedural Regulations

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) amends its regulations by adding a new part to contain procedural regulations governing proceedings before the Office of Hearings and Appeals (OHA), a quasi-judicial branch of the DOE, pertaining to matters within the jurisdiction of that Office. These rules streamline and distill the procedures governing the conduct of proceedings before the OHA and update pertinent filing information. They will be used by OHA in most cases that do not involve the former federal petroleum price and allocation control regulations.

EFFECTIVE DATE: These rules become effective April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 586–2383, Internet: roger.klurfeld@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Discussion
II. Procedural Requirements

I. Discussion

The Office of Hearings and Appeals (OHA) is a quasi-judicial body reporting to the Secretary of Energy. It is responsible for conducting most informal adjudicative proceedings of DOE where there is provision for separation of functions, other than those which are subject to the jurisdiction of the Federal Energy Regulatory Commission. In connection with these duties, OHA holds hearings, receives evidence, develops the record, and issues final agency determinations, which are subject to review in the federal courts. Except for regulations governing proceedings before the Board of Contract Appeals and other procurement and financial assistance appeals boards in DOE (which are independent components of the Office of Hearings and Appeals and governed by their own rules), procedural regulations governing OHA practice generally have appeared before today in part 205 of title 10 of the Code of Federal Regulations. Part 205 is a part of chapter II, subchapter A of the DOE regulations, and was designed to apply to matters involving the former oil price and allocation control regulations which were in effect during the period 1973 through January 1981. Part 205 will be retained until the remaining oil-related proceedings are completed. Because those oil-related proceedings are winding down, and the OHA is conducting a variety of other informal adjudications for the Department, it is now appropriate that the OHA procedural regulations should appear in chapter X of title 10, which contains the general provisions of DOE regulations. The rules issued today will be organized as a new part 1003 within chapter X, and will be used by OHA in most cases that do not involve the former federal petroleum regulations. At the same time, these new procedures governing the conduct of proceedings before the OHA have been streamlined, and pertinent filing information has been updated.

A Notice of Proposed Rulemaking was published in the **Federal Register** on July 7, 1994 (59 FR 34767). No comments were received.

Apart from general filing procedures, the regulations issued today set forth OHA procedures for adjudicating various applications, petitions, motions and related requests filed by the public. These regulations include procedures for the filing of: (1) Applications for Exception from a DOE rule, regulation or action having the effect of a rule as defined by 5 U.S.C. 551(4); (2) Appeals of DOE orders; (3) Applications for Stay of DOE orders; (4) Motions for Modification or Rescission of OHA orders; (5) Requests for Conferences and Hearings before OHA; and (6) Petitions for Special Redress or Other Relief.

These rules are not intended to grant by themselves any new authority to the Office of Hearings and Appeals to conduct informal adjudications. They are designed to provide standard procedural rules that may be used to cover a variety of situations that may be encountered by the many different programs that the Department implements.

There are two ways these regulations become applicable. First, the procedures outlined in these rules become applicable where program rules specifically reference them and state that a member of the public can make a request for relief under these rules. For example, the program regulations that the Department promulgated in the Energy Conservation Program for Consumer Products state that any person receiving an order may file an appeal with the Office of Hearings and Appeals using that Office's appellate rules. See 10 CFR 430.27(n).[1]

Second, these rules may be applicable where a statute requires or authorizes the Department to provide procedures that permit the public to seek redress, and the appropriate departmental official has delegated the responsibility to implement that requirement to the Office of Hearings and Appeals. For example, section 504 (42 U.S.C. 7194) of the Department of Energy Organization Act (DOE Act) (42 U.S.C. 7101 *et seq.*) requires the Secretary of Energy to provide for the making of adjustments to a rule or regulation issued under four statutes—the Emergency Petroleum Allocation Act of 1973 (since expired), the Federal Energy Administration Act of 1974 (FEAA), the Energy Supply and Environmental Coordination Act of 1974, and the Energy Policy and Conservation Act—as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens. The Secretary has delegated that responsibility to the Office of Hearings and Appeals, which is promulgating procedures in subpart B today by which members of the public may seek an exception from rules or regulations issued under the three named statutes which remain in effect.[2] (See also part 205, subpart D, for exception provisions applicable to the oil program.)

Despite the establishment of standard procedures in these rules, there may be situations where the Office of Hearings and Appeals needs to use procedures specific to the particular needs of a program. In those situations, DOE program regulations themselves contain procedures governing OHA proceedings conducted under authority of those particular regulations, rather than a reference to OHA procedural rules. For example, the DOE Contractor Employee Protection Program contains procedural rules governing OHA proceedings under 10 CFR part 708. Similarly, procedural

[1] Elsewhere in today's **Federal Register**, DOE is changing existing references in program rules from part 205 to part 1003. For instance, the DOE is modifying section 430.27(n) of 10 CFR part 430 (DOE Energy Conservation Program for Consumer Products) to provide that an aggrieved person filing an appeal under that part shall proceed under subpart C of the new part 1003, in place of subpart H of part 205. Future rulemakings which invoke OHA's adjudicatory authority will refer to the rules contained in part 1003 as the operative administrative process.

[2] Similarly under delegation to OHA, persons may petition for relief under subpart G (Private Grievances and Redress) with respect to those program functions assigned to DOE under the FEAA which are not oil related. (See FEAA section 21, 15 U.S.C. 780.)

rules governing OHA proceedings involving eligibility for access to classified matter or special nuclear material are contained in 10 CFR part 710. Under these circumstances, the rules in the program rules would govern OHA proceedings in those matters, and the rules in part 1003 would not apply.

With the exception of the regulations governing the filing and adjudication of an Application for Exception, the rules promulgated today correspond to nearly identical procedural rules contained in 10 CFR part 205, which were promulgated in the 1970's to adjudicate matters relating to the federal oil regulations. Regulations concerning the filing and adjudication of an Application for Exception have been revised and are contained in 10 CFR part 1003, subpart B. Generally, an Application for Exception may be filed by a person seeking an exception from a DOE regulatory requirement, where such relief is authorized by the pertinent regulations or underlying statute. Similar to the regulations appearing in 10 CFR part 205, subpart D, the rules promulgated today provide that an aggrieved person may file an Application for Exception from a DOE regulation on the basis that the specific regulatory requirement results in a serious hardship, gross inequity or unfair distribution of burdens. The rules set forth in part 1003, subpart B, present a simpler procedure than the rules in part 205, subpart D, by (1) eliminating the issuance of a Proposed Decision and Order and related procedures prior to issuance of a final Decision and Order, and (2) providing for an administrative appeal of the final Decision and Order by an aggrieved party directly to OHA, except in exception proceedings brought under section 504 of the DOE Act which will continue to be appealable to the Federal Energy Regulatory Commission. The rules make the adjudication of Applications for Exception more effective since they are more practicable than the more complex procedures of part 205, subpart D, which were formulated in contemplation of the federal oil regulations.

It is the intent of DOE to require parties to pursue an administrative appeal prior to seeking judicial review. The Supreme Court has interpreted section 10(c) of the Administrative Procedure Act (APA) (5 U.S.C. 704) to provide that, with respect to actions brought under the APA, an administrative appeal is a prerequisite to judicial review only when expressly required by statute or when an agency rule requires appeal before review and the administrative action is made inoperative pending that review. *Darby* v. *Cisneros,* 113 S. Ct. 2539, 125 L. Ed. 2d 113 (1993). Accordingly, new 10 CFR 1003.30 provides that a person aggrieved by a DOE order appealable under subpart C of these regulations has not exhausted administrative remedies until an appeal has been filed and an order granting or denying the appeal has been issued. In addition, section 1003.30 provides that a person filing an appeal must also file an ''Application for Stay'' under subpart D of part 1003 if the grant of such a stay is necessary to render the administrative action inoperable and thus preclude judicial review pending final OHA action on the appeal.

II. Procedural Requirements

A. Executive Order 12866

Today's regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

B. Executive Order 12612

Executive Order 12612 requires that regulations or rules be reviewed for direct effects on States, on the relationship between the national government and the States, or in the distribution of power among various levels of government. If there are sufficient substantial direct effects, then Executive Order 12612 requires preparation of a federalism assessment to be used in all decisions involved in promulgating or implementing a regulation or rule.

Today's regulations do not affect any traditional State function. There are therefore no substantial direct effects requiring evaluation or assessment under Executive Order 12612.

C. Regulatory Flexibility Analysis

These regulations were reviewed under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) which requires preparation of a regulatory flexibility analysis for any regulations that will have a significant economic impact on a substantial number of small entities. This action essentially recodifies existing procedural regulations. DOE, accordingly, certifies that there will not be a significant and adverse economic impact on a substantial number of small entities and that preparation of a regulatory flexibility analysis is not warranted.

D. National Environmental Policy Act

The rules issued today are strictly procedural in nature. Preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) is not required for such rules under Appendix A to subpart D of 10 CFR part 1021. More specifically, DOE has determined that this rule is covered under the Categorical Exclusion found in paragraph A.6 of Appendix A to subpart D of part 1021, which applies to the establishment of procedural rulemakings. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Paperwork Reduction Act

There will be no additional paperwork burden imposed by the rules issued today. Therefore, the goals of the Paperwork Reduction Act are not diminished by the rules.

F. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation specifies clearly any preemptive effect, effect on existing federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. The DOE certifies that today's rule meets the requirements of sections 2(a) and (b)(2) of Executive Order 12778.

List of Subjects in 10 CFR Part 1003

Administrative practice and procedure, Appeal procedures, Hearing and appeal procedures, Practice and procedure.

Issued in Washington, DC, on March 14, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

For the reasons set forth in the preamble, title 10, chapter X of the CFR is amended by adding a new part 1003 to read as set forth below:

PART 1003—OFFICE OF HEARINGS AND APPEALS PROCEDURAL REGULATIONS

Subpart A—General Provisions

Sec.
1003.1 Purpose and scope.
1003.2 Definitions.
1003.3 Appearance before the OHA.
1003.4 Filing of documents.
1003.5 Computation of time.
1003.6 Extension of time.
1003.7 Service.
1003.8 Subpoenas, special report orders, oaths, witnesses.
1003.9 General filing requirements.
1003.10 Effective date of orders.
1003.11 Address for filing documents.
1003.12 Ratification of prior directives, orders and actions.
1003.13 Public reference room.
1003.14 Notice of proceedings.

Subpart B—Exceptions

1003.20 Purpose and scope.
1003.21 What to file.
1003.22 Where to file.
1003.23 Notice.
1003.24 Contents.
1003.25 OHA evaluation.
1003.26 Decision and Order.
1003.27 Appeal of exception order.

Subpart C—Appeals

1003.30 Purpose and scope.
1003.31 Who may file.
1003.32 What to file.
1003.33 Where to file.
1003.34 Notice.
1003.35 Contents.
1003.36 OHA evaluation.
1003.37 Decision and Order.

Subpart D—Stays

1003.40 Purpose and scope.
1003.41 What to file.
1003.42 Where to file.
1003.43 Notice.
1003.44 Contents.
1003.45 OHA evaluation.
1003.46 Decision and Order.

Subpart E—Modification or Rescission

1003.50 Purpose and scope.
1003.51 What to file.
1003.52 Where to file.
1003.53 Notice.
1003.54 Contents.
1003.55 OHA evaluation.
1003.56 Decision and Order.

Subpart F—Conferences and Hearings

1003.60 Purpose and scope.
1003.61 Conferences.
1003.62 Hearings.

Subpart G—Private Grievances and Redress

1003.70 Purpose and scope.
1003.71 Who may file.
1003.72 What to file.
1003.73 Where to file.
1003.74 Notice.
1003.75 Contents.
1003.76 OHA evaluation of request.
1003.77 Decision and Order.

Authority: 15 U.S.C. 761 *et seq.*; 42 U.S.C. 7101 *et seq.*

Subpart A—General Provisions

§ 1003.1 Purpose and scope.

This part establishes the procedures to be utilized and identifies the sanctions that are available in most proceedings before the Office of Hearings and Appeals of the Department of Energy. These procedures provide standard rules of practice in a variety of informal adjudications when jurisdiction is vested in the Office of Hearings and Appeals. Any or all of the procedures contained in this part may be incorporated by reference in another DOE rule or regulation which invokes the adjudicatory authority of the Office of Hearings and Appeals. The procedures may also be made applicable at the direction of an appropriate DOE official if incorporated by reference in the delegation. These rules do not apply in instances in which DOE regulations themselves contain procedures governing OHA proceedings conducted under authority of those particular regulations. (E.g., 10 CFR part 708–DOE Contractor Employee Protection Program; 10 CFR part 710–Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.) These rules also do not apply to matters which relate specifically to the federal oil regulations (10 CFR parts 210, 211, and 212) and which are governed by the procedures contained in 10 CFR part 205, or to matters before the DOE Board of Contract Appeals or other procurement and financial assistance appeals boards, which are governed by their own rules.

§ 1003.2 Definitions.

(a) As used in this part:

Action means an order issued, or a rulemaking undertaken, by the DOE.

Aggrieved, with respect to a person, means adversely affected by an action of the DOE.

Conference means an informal meeting between the Office of Hearings and Appeals and any person aggrieved by an action of the DOE.

Director means the Director of the Office of Hearings and Appeals or duly authorized delegate.

DOE means the Department of Energy, created by the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

Duly authorized representative means a person who has been designated to appear before the Office of Hearings and Appeals in connection with a proceeding on behalf of a person interested in or aggrieved by an action of the DOE. Such appearance may consist of the submission of a written document, a personal appearance, verbal communication, or any other participation in the proceeding.

Exception means the waiver or modification of the requirements of a rule, regulation or other DOE action having the effect of a rule as defined by 5 U.S.C. 551(4) under a specific set of facts, pursuant to subpart B of this part.

Federal legal holiday means the first day of January, the third Monday of January, the third Monday of February, the last Monday of May, the fourth day of July, the first Monday of September, the second Monday of October, the eleventh day of November, the fourth Thursday of November, the twenty-fifth day of December, or any other calendar day designated as a holiday by federal statute or Executive order.

OHA means the Office of Hearings and Appeals of the Department of Energy.

Order means the whole or a part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of DOE in a matter other than rulemaking but including licensing. This definition does not include internal DOE orders and directives issued by the Secretary of Energy or delegate in the management and administration of departmental elements and functions.

Person means any individual, firm, estate, trust, sole proprietorship, partnership, association, company, joint-venture, corporation, governmental unit or instrumentality thereof, or a charitable, educational or other institution, and includes any officer, director, owner or duly authorized representative thereof.

Proceeding means the process and activity, and any part thereof, instituted by the OHA, either on its own initiative or in response to an application, complaint, petition or request submitted by a person, that may lead to an action by the OHA.

SRO means a special report order issued pursuant to § 1003.8(b) of this part.

(b) Throughout this part the use of a word or term in the singular shall include the plural, and the use of the male gender shall include the female gender.

§ 1003.3 Appearance before the OHA.

(a) A person may make an appearance, including personal appearances in the discretion of the OHA, and participate in any proceeding described in this part on his own behalf or by a duly authorized representative.

Any application, appeal, petition, or request filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative. Falsification of such certification will subject such person to the sanctions stated in 18 U.S.C. 1001.

(b) *Suspension and disqualification.* The OHA may deny, temporarily or permanently, the privilege of participating in proceedings, including oral presentation, to any individual who is found by the OHA—

(1) To have made false or misleading statements, either verbally or in writing;

(2) To have filed false or materially altered documents, affidavits or other writings;

(3) To lack the specific authority to represent the person seeking an OHA action; or

(4) To have engaged in or to be engaged in contumacious conduct that substantially disrupts a proceeding.

§ 1003.4 Filing of documents.

(a) Any document filed with the OHA must be addressed as required by § 1003.11, and should conform to the requirements contained in § 1003.9. All documents and exhibits submitted become part of an OHA file and will not be returned.

(b) A document submitted in connection with any proceeding transmitted by first class United States mail and properly addressed is considered to be filed upon mailing.

(c) Hand-delivered documents to be filed with the OHA shall be submitted to Room 1E–234 at 1000 Independence Avenue, S.W., Washington, D.C., on business days between the hours of 2:00 p.m. and 4:30 p.m.

(d) Documents hand delivered or received electronically after regular business hours are deemed filed on the next regular business day.

§ 1003.5 Computation of time.

(a) *Days.* (1) Except as provided in paragraph (b) of this section, in computing any period of time prescribed or allowed by these regulations or by an order of the OHA, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or federal legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or a federal legal holiday.

(2) Saturdays, Sundays and federal legal holidays shall be excluded from the computation of time when the period of time allowed or prescribed is 7 days or less.

(b) *Hours.* If the period of time prescribed in an order issued by the OHA is stated in hours rather than days, the period of time shall begin to run upon actual notice of such order, whether by verbal or written communication, to the person directly affected, and shall run without interruption, unless otherwise provided in the order, or unless the order is stayed, modified, suspended or rescinded. When a written order is transmitted by verbal communication, the written order shall be served as soon thereafter as is feasible.

(c) *Additional time after service by mail.* Whenever a person is required to perform an act, to cease and desist therefrom, or to initiate a proceeding under this part within a prescribed period of time after issuance to such person of an order, notice or other document and the order, notice or other document is served solely by mail, 3 days shall be added to the prescribed period.

§ 1003.6 Extension of time.

When a document is required to be filed within a prescribed time, an extension of time to file may be granted by the OHA upon good cause shown.

§ 1003.7 Service.

(a) All documents required to be served under this part shall be served personally or by first class United States mail, except as otherwise provided.

(b) Service upon a person's duly authorized representative shall constitute service upon that person.

(c) Official United States Postal Service receipts from certified mailing shall constitute evidence of service.

§ 1003.8 Subpoenas, special report orders, oaths, witnesses.

(a) In accordance with the provisions of this section and as otherwise authorized by law, the Director may sign, issue and serve subpoenas; administer oaths and affirmations; take sworn testimony; compel attendance of and sequester witnesses; control dissemination of any record of testimony taken pursuant to this section; subpoena and reproduce books, papers, correspondence, memoranda, contracts, agreements, or other relevant records or tangible evidence including, but not limited to, information retained in computerized or other automated systems in possession of the subpoenaed person.

(b) The Director may issue a Special Report Order requiring any person subject to the jurisdiction of the OHA to file a special report providing information relating to the OHA proceeding, including but not limited to written answers to specific questions. The SRO may be in addition to any other reports required.

(c) The Director, for good cause shown, may extend the time prescribed for compliance with the subpoena or SRO and negotiate and approve the terms of satisfactory compliance.

(d) Prior to the time specified for compliance, but in no event more than 10 days after the date of service of the subpoena or SRO, the person upon whom the document was served may file a request for review of the subpoena or SRO with the Director. The Director then shall provide notice of receipt to the person requesting review, may extend the time prescribed for compliance with the subpoena or SRO, and may negotiate and approve the terms of satisfactory compliance.

(e) If the subpoena or SRO is not modified or rescinded within 10 days of the date of the Director's notice of receipt:

(1) The subpoena or SRO shall be effective as issued; and

(2) The person upon whom the document was served shall comply with the subpoena or SRO within 20 days of the date of the Director's notice of receipt, unless otherwise notified in writing by the Director.

(f) There is no administrative appeal of a subpoena or SRO.

(g) A subpoena or SRO shall be served upon a person named in the document by delivering a copy of the document to the person named.

(h) Delivery of a copy of a subpoena or SRO to a natural person may be made by:

(1) Handing it to the person;

(2) Leaving it at the person's office with the person in charge of the office;

(3) Leaving it at the person's dwelling or usual place of abode with a person of suitable age and discretion who resides there;

(4) Mailing it to the person by certified mail, at his last known address; or

(5) Any method that provides the person with actual notice prior to the return date of the document.

(i) Delivery of a copy of a subpoena or SRO to a person who is not a natural person may be made by:

(1) Handing it to a registered agent of the person;

(2) Handing it to any officer, director, or agent in charge of any office of such person;

(3) Mailing it to the last known address of any registered agent, officer, director, or agent in charge of any office of the person by certified mail; or

(4) Any method that provides any registered agent, officer, director, or agent in charge of any office of the person with actual notice of the document prior to the return date of the document.

(j) A witness subpoenaed by the OHA may be paid the same fees and mileage as paid to a witness in the district courts of the United States.

(k) If in the course of a proceeding a subpoena is issued at the request of a person other than an officer or agency of the United States, the witness fees and mileage shall be paid by the person who requested the subpoena. However, at the request of the person, the witness fees and mileage may be paid by the OHA if the person shows:

(1) The presence of the subpoenaed witness will materially advance the proceeding; and

(2) The person who requested that the subpoena be issued would suffer a serious hardship if required to pay the witness fees and mileage.

(l) If any person upon whom a subpoena or SRO is served pursuant to this section refuses or fails to comply with any provision of the subpoena or SRO, an action may be commenced in the appropriate United States District Court to enforce the subpoena or SRO.

(m) Documents produced in response to a subpoena shall be accompanied by the sworn certification, under penalty of perjury, of the person to whom the subpoena was directed or his authorized agent that:

(1) A diligent search has been made for each document responsive to the subpoena; and

(2) To the best of his knowledge, information, and belief each document responsive to the subpoena is being produced.

(n) Any information furnished in response to an SRO shall be accompanied by the sworn certification, under penalty of perjury, of the person to whom it was directed or his authorized agent who actually provides the information that:

(1) A diligent effort has been made to provide all information required by the SRO; and

(2) All information furnished is true, complete, and correct.

(o) If any document responsive to a subpoena is not produced or any information required by an SRO is not furnished, the certification shall include a statement setting forth every reason for failing to comply with the subpoena or SRO. If a person to whom a subpoena or SRO is directed withholds any document or information because of a claim of attorney-client or other privilege, the person submitting the certification required by paragraph (m) or (n) of this section also shall submit a written list of the documents or the information withheld indicating a description of each document or information, the date of the document, each person shown on the document as having received a copy of the document, each person shown on the document as having prepared or been sent the document, the privilege relied upon as the basis for withholding the document or information, and an identification of the person whose privilege is being asserted.

(p) If testimony is taken pursuant to a subpoena, the Director shall determine whether the testimony shall be recorded and the means by which the testimony is recorded.

(q) A witness whose testimony is recorded may procure a copy of his testimony by making a written request for a copy and paying the appropriate fees. However, the Director may deny the request for good cause. Upon proper identification, any witness or his attorney has the right to inspect the official transcript of the witness' own testimony.

(r) The Director may sequester any person subpoenaed to furnish documents or give testimony. Unless permitted by the Director, neither a witness nor his attorney shall be present during the examination of any other witnesses.

(s) A witness whose testimony is taken may be accompanied, represented and advised by his attorney as follows:

(1) Upon the initiative of the attorney or witness, the attorney may advise his client, in confidence, with respect to the question asked his client, and if the witness refuses to answer any question, the witness or his attorney is required to briefly state the legal grounds for such refusal; and

(2) If the witness claims a privilege to refuse to answer a question on the grounds of self-incrimination, the witness must assert the privilege personally.

(t) The Director shall take all necessary action to regulate the course of testimony and to avoid delay and prevent or restrain contemptuous or obstructionist conduct or contemptuous language. OHA may take actions as the circumstances may warrant in regard to any instances where any attorney refuses to comply with directions or provisions of this section.

§ 1003.9 General filing requirements.

(a) *Purpose and scope.* The provisions of this section shall apply to all documents required or permitted to be filed with the OHA. One copy of each document must be filed with the original, except as provided in paragraph (f) of this section. A telefax filing of a document will be accepted only if immediately followed by the filing by mail or hand-delivery of the original document.

(b) *Signing.* Any document that is required to be signed, shall be signed by the person filing the document. Any document filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative. (A false certification is unlawful under the provisions of 18 U.S.C. 1001.) The signature by the person or duly authorized representative constitutes a certificate by the signer that the signer has read the document and that to the best of the signer's knowledge, information and belief formed after reasonable inquiry, the document is well grounded in fact, warranted under existing law, and submitted in good faith and not for any improper purpose such as to harass or to cause unnecessary delay. If a document is signed in violation of this section, OHA may impose the sanctions specified in section 1003.3 and other sanctions determined to be appropriate.

(c) *Labeling.* An application, petition, or other request for action by the OHA should be clearly labeled according to the nature of the action involved both on the document and on the outside of the envelope in which the document is transmitted.

(d) *Obligation to supply information.* A person who files an application, petition, appeal or other request for action is under a continuing obligation during the proceeding to provide the OHA with any new or newly discovered information that is relevant to that proceeding. Such information includes, but is not limited to, information regarding any other application, petition, appeal or request for action that is subsequently filed by that person with any DOE office.

(e) *The same or related matters.* A person who files an application, petition, appeal or other request for action by the OHA shall state whether, to the best knowledge of that person, the same or related issue, act or transaction has been or presently is being considered or investigated by any other DOE office, other federal agency, department or instrumentality; or by a state or municipal agency or court; or by any law enforcement agency, including, but not limited to, a consideration or investigation in connection with any proceeding described in this part. In addition, the person shall state whether contact has been made by the person or

one acting on his behalf with any person who is employed by the DOE with regard to the same issue, act or transaction or a related issue, act or transaction arising out of the same factual situation; the name of the person contacted; whether the contact was verbal or in writing; the nature and substance of the contact; and the date or dates of the contact.

(f) *Request for confidential treatment.* (1) If any person filing a document with the OHA claims that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt by law from public disclosure, and if such person requests the OHA not to disclose such information, such person shall file together with the document two copies of the document from which has been deleted the information for which such person wishes to claim confidential treatment. The person shall indicate in the original document that it is confidential or contains confidential information and must file a statement specifying the justification for non-disclosure of the information for which confidential treatment is claimed. If the person states that the information comes within the exception codified at 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, such person shall include a statement specifying why such information is privileged or confidential. If the person filing a document does not submit two copies of the document with the confidential information deleted, the OHA may assume that there is no objection to public disclosure of the document in its entirety.

(2) The OHA retains the right to make its own determination with regard to any claim of confidentiality, under criteria specified in 10 CFR 1004.11. Notice of the decision by the OHA to deny such claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality of information no less than five days prior to its public disclosure.

(g) Each application, petition or request for OHA action shall be submitted as a separate document, even if the applications, petitions, or requests deal with the same or a related issue, act or transaction, or are submitted in connection with the same proceeding.

§ 1003.10 Effective date of orders.

Any order issued by the OHA under this part is effective as against all persons having actual or constructive notice thereof upon issuance, in accordance with its terms, unless and until it is stayed, modified, suspended, or rescinded. An order is deemed to be issued on the date, as specified in the order, on which it is signed by the Director of the OHA or his designee, unless the order provides otherwise.

§ 1003.11 Address for filing documents.

All applications, requests, petitions, appeals, written communications and other documents to be submitted to or filed with the OHA, as provided in this part or otherwise, shall be addressed to the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. The OHA has facilities for the receipt of transmissions via FAX, at FAX Number (202) 586–4972.

§ 1003.12 Ratification of prior directives, orders and actions.

All orders and other directives issued, all proceedings initiated, and all other actions taken in accordance with 10 CFR part 205 prior to the effective date of this part, are hereby confirmed and ratified, and shall remain in full force and effect as if issued under this part, unless or until they are altered, amended, modified or rescinded in accordance with the provisions of this part.

§ 1003.13 Public reference room.

There shall be maintained at the OHA, 1000 Independence Avenue, S.W., Washington, D.C., a public reference room in which shall be made available for public inspection and copying, during business hours from 1:00 p.m. to 5:00 p.m.:

(a) A list of all persons who have applied for an exception, or filed an appeal or petition, and a digest of each application;

(b) Each Decision and Order, with confidential information deleted, issued in response to an application for an exception, petition or other request, or at the conclusion of an appeal; and

(c) Any other information in the possession of OHA which is required by statute to be made available for public inspection and copying, and any other information that the OHA determines should be made available to the public.

§ 1003.14 Notice of proceedings.

At regular intervals, the OHA shall publish in the **Federal Register** a digest of the applications, appeals, petitions and other requests filed, and a summary of the Decisions and Orders issued by the OHA, pursuant to proceedings conducted under this part.

Subpart B—Exceptions

§ 1003.20 Purpose and scope.

(a) This subpart establishes the procedures for applying for an exception, as provided for in section 504 (42 U.S.C. 7194) of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), from a rule, regulation or DOE action having the effect of a rule as defined by 5 U.S.C. 551(4), based on an assertion of serious hardship, gross inequity or unfair distribution of burdens, and for the consideration of such application by the OHA. The procedures contained in this subpart may be incorporated by reference in another DOE rule or regulation which invokes the adjudicatory authority of the Office of Hearings and Appeals. The procedures may also be made applicable to proceedings undertaken at the direction of an appropriate DOE official if incorporated by reference in the delegation.

(b) The filing of an application for an exception shall not constitute grounds for noncompliance with the requirements from which an exception is sought, unless a stay has been issued in accordance with subpart D of this part.

§ 1003.21 What to file.

A person seeking relief under this subpart shall file an ''Application for Exception,'' which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing. The general filing requirements stated in § 1003.9 shall be complied with in addition to the requirements stated in this subpart.

§ 1003.22 Where to file.

All applications for exception shall be filed with the OHA at the address provided in § 1003.11.

§ 1003.23 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to each person who is reasonably ascertainable by the applicant as a person who would be aggrieved by the OHA action sought. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application within 10 days. The application filed with the OHA shall include certification to the OHA that the applicant has complied with the requirements of this

paragraph and shall include the names and addresses of each person to whom a copy of the application was sent.

(b) Notwithstanding the provision of paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and practicable to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was sent. The OHA may require the applicant to provide additional or alternative notice, may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the **Federal Register**.

(c) The OHA shall serve notice on any other person readily identified by the OHA as one who would be aggrieved by the OHA action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 10 days of service of such notice.

(d) Any person submitting written comments to the OHA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to the applicant. The person shall certify to the OHA that he has complied with the requirements of this paragraph. The OHA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 1003.24 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the OHA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested OHA action; and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the application. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the application.

(b) The applicant shall state whether he requests or intends to request that there be a conference or hearing regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible. The request and the OHA determination on the request shall be made in accordance with subpart F of this part.

(c) The application shall include a discussion of all relevant authorities, including, but not limited to, DOE rules, regulations, and decisions on appeals and exceptions relied upon to support the particular action sought therein.

(d) The application shall specify the exact nature and extent of the relief requested.

§ 1003.25 OHA evaluation.

(a) (1) OHA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The OHA may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the OHA may consider any other source of information. The OHA on its own initiative may convene a hearing or conference, if, in its discretion, it considers that such hearing or conference will advance its evaluation of the application. The OHA may issue appropriate orders as warranted in the proceeding.

(2) If the OHA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the applicant, the OHA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the OHA may dismiss the application with prejudice. If the applicant fails to provide the notice required by § 1003.23, the OHA may dismiss the application without prejudice.

(b)(1) The OHA shall consider an application for an exception only when it determines that a more appropriate proceeding is not provided by DOE regulations.

(2) An application for an exception may be granted to alleviate or prevent serious hardship, gross inequity or unfair distribution of burdens.

(3) An application for an exception shall be decided in a manner that is, to the extent possible, consistent with the disposition of previous applications for exception.

§ 1003.26 Decision and Order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the OHA shall issue an order granting or denying the application, in whole or in part.

(b) The Decision and Order shall include a written statement setting forth the relevant facts and the legal basis of the order. The Decision and Order shall provide that any person aggrieved thereby may file an appeal in accordance with § 1003.27.

(c) The OHA shall serve a copy of the Decision and Order upon the applicant, any other person who participated in the proceeding, and upon any other person readily identifiable by the OHA as one who is aggrieved by such Decision and Order.

§ 1003.27 Appeal of exception order.

(a) Except as provided in paragraph (b) of this section, any person aggrieved by an order issued by the OHA under this subpart may file an appeal with the OHA in accordance with subpart C of this part. Any appeal filed under this paragraph must be filed within 30 days of service, or constructive service under § 1003.14, of the order from which the appeal is taken.

(b) Any person aggrieved or adversely affected by the denial of a request for exception relief filed pursuant to § 504 of the Department of Energy Organization Act (42 U.S.C. 7194) may appeal to the Federal Energy Regulatory Commission, in accordance with the Commission's regulations.

Subpart C—Appeals

§ 1003.30 Purpose and scope.

This subpart establishes the procedures for the filing of an administrative appeal of a DOE order and for the consideration of the appeal by the Office of Hearings and Appeals. Unless a program rule or regulation or a DOE delegation of authority provides otherwise, a person aggrieved by a DOE order appealable under this subpart has not exhausted his or her administrative remedies until an appeal has been filed under this subpart and an order granting or denying the appeal has been issued. A person filing an appeal must also file an ''Application for Stay'' under subpart D of this part if the grant of a stay is necessary under Section 10(c) of the Administrative Procedure Act (5 U.S.C. 704) to preclude judicial review pending final action on the appeal.

§ 1003.31 Who may file.

Any person may file an appeal under this subpart who is so authorized by § 1003.27, a program rule or regulation, or a DOE delegation of authority.

§ 1003.32 What to file.

A person filing under this subpart shall file an ''Appeal of Order'' which should be clearly labeled as such both on the appeal and on the outside of the envelope in which the appeal is transmitted, and shall be in writing. The general filing requirements stated in § 1003.9 shall be complied with in addition to the requirements stated in this subpart.

§ 1003.33 Where to file.

The appeal shall be filed with the OHA at the address provided in § 1003.11.

§ 1003.34 Notice.

(a) The appellant shall send by United States mail a copy of the appeal and any subsequent amendments or other documents relating to the appeal, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to each person who is reasonably ascertainable by the appellant as a person who would be aggrieved by the OHA action sought, including those who participated in the process that led to the issuance of the order from which the appeal has been taken. The copy of the appeal shall be accompanied by a statement that the person may submit comments regarding the appeal to the OHA within 10 days. The appeal filed with the OHA shall include certification to the OHA that the appellant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the appeal was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if any appellant determines that compliance with paragraph (a) of this section would be impracticable, the appellant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the appeal a description of the persons or class or classes of persons to whom notice was not sent. The OHA may require the appellant to provide additional or alternative notice, may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the **Federal Register**.

(c) The OHA shall serve notice on any other person readily identifiable by the OHA as one who would be aggrieved by the OHA action sought and may serve notice on any other person that written comments regarding the appeal will be accepted if filed within 10 days of the service of that notice.

(d) Any person submitting written comments to the OHA with respect to an appeal filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to the appellant. The person shall certify to the OHA that he has complied with the requirements of this paragraph. The OHA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 1003.35 Contents.

(a) The appeal shall contain a concise statement of grounds upon which it is brought and a description of the relief sought. It shall include a discussion of all relevant authorities, including, but not limited to, DOE rules, regulations, and decisions on appeals and exceptions relied upon to support the appeal. If the appeal includes a request for relief based on significantly changed circumstances, there shall be a complete description of the events, acts, or transactions that comprise the significantly changed circumstances, and the appellant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the process that led to the issuance of the order from which the appeal has been taken. For purposes of this subpart, the term ''significantly changed circumstances'' shall mean—

(1) The discovery of material facts that were not known or could not have been known at the time of the process that led to the issuance of the order from which the appeal has been taken;

(2) The discovery of a law, rule, regulation, order or decision on an appeal or any exception that was in effect at the time of the process that led to the issuance of the order from which the appeal has been taken, and which, if such had been made known to DOE, would have been relevant and would have substantially altered the outcome; or

(3) A substantial change in the facts or circumstances upon which an outstanding and continuing order affecting the appellant was issued, which change has occurred during the interval between issuance of the order and the date of the appeal and was caused by forces or circumstances beyond the control of the appellant.

(b) A copy of the order that is the subject of the appeal shall be submitted with the appeal.

(c) The appellant shall state whether he requests or intends to request that there be a conference or hearing regarding the appeal. Any request not made at the time the appeal is filed shall be made as soon thereafter as possible. The request and the OHA determination on the request shall be made in accordance with subpart F of this part.

§ 1003.36 OHA evaluation.

(a) (1) The OHA may initiate an investigation of any statement in an appeal and utilize in its evaluation any relevant facts obtained by such investigation. The OHA may solicit and accept submissions from third persons relevant to any appeal provided that the appellant is afforded an opportunity to respond to all third person submissions. In evaluating an appeal, the OHA may consider any other source of information. The OHA on its own initiative may convene a conference or hearing if, in its discretion, it considers that such conference or hearing will advance its evaluation of the appeal.

(2) If the OHA determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted, the OHA may dismiss the appeal with leave to refile within a specified time. If the failure to supply additional information is repeated or willful, the OHA may dismiss the appeal with prejudice. If the appellant fails to provide the notice required by § 1003.34, the OHA may dismiss the appeal without prejudice.

(b) The OHA may issue an order summarily denying the appeal if—

(1) It is not filed in a timely manner, unless good cause is shown; or

(2) It is defective on its face for failure to state, and to present facts and legal argument in support thereof, that the DOE action was erroneous in fact or in law, or that it was arbitrary or capricious.

(c) The OHA may deny any appeal if the appellant does not establish that—

(1) The appeal was filed by a person aggrieved by a DOE action;

(2) The DOE's action was erroneous in fact or in law; or

(3) The DOE's action was arbitrary or capricious.

§ 1003.37 Decision and Order.

(a) Upon consideration of the appeal and other relevant information received or obtained during the proceeding, the OHA shall enter an appropriate order, which may include the modification of the order that is the subject of the appeal.

(b) The Decision and Order shall include a written statement setting forth the relevant facts and the legal basis of the Decision and Order. The Decision and Order shall state that it is a final

order of the DOE of which the appellant may seek judicial review.

(c) The OHA shall serve a copy of the Decision and Order upon the appellant, any other person who participated in the proceeding, and upon any other person readily identifiable by the OHA as one who is aggrieved by such Decision and Order.

Subpart D—Stays

§ 1003.40 Purpose and scope.

(a) This subpart establishes the procedures for applying for a stay. It also specifies the nature of the relief which may be effectuated through the approval of a stay.

(b) An application for a stay will be considered if it is incident to a submission over which OHA has jurisdiction. An application for stay may also be considered if the stay is requested pending judicial review of an order issued by the OHA.

(c) All applicable DOE rules, regulations, orders, and generally applicable requirements shall be complied with unless and until an application for a stay is granted.

§ 1003.41 What to file.

A person filing under this subpart shall file an ''Application for Stay'' which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted. The application shall be in writing. The general filing requirements stated in § 1003.9 shall be complied with in addition to the requirements stated in this subpart.

§ 1003.42 Where to file.

An Application for Stay shall be filed with the OHA at the address provided in § 1003.11.

§ 1003.43 Notice.

(a) An applicant for stay shall notify each person readily identifiable as one who will be directly aggrieved by the OHA action sought that it has filed an Application for Stay. The applicant shall serve the application on each identified person and shall notify each such person that the OHA will receive and endeavor to consider, subject to time constraints imposed by the urgency of the proceeding, written comments on the application that are submitted immediately.

(b) Any person submitting written comments to the OHA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to the applicant. The person shall certify to the OHA that he has complied with the requirements of this paragraph. The OHA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

(c) The OHA shall require the applicant to take reasonable measures depending on the circumstances and urgency of the case to notify each person readily identified as one that would be directly aggrieved by the OHA action sought of the date, time and place of any hearing or other proceedings in the matter. However, if the Director of the OHA concludes that the circumstances presented by the applicant justify immediate action, the OHA may issue a Decision on the Application for Stay prior to receipt of written comments or the oral presentation of views by adversely affected parties.

§ 1003.44 Contents.

(a) An Application for Stay shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the application and to the OHA action sought. Such facts shall include, but not be limited to, all information that relates to satisfaction of the criteria in § 1003.45(b).

(b) The application shall include a description of the proceeding incident to which the stay is being sought. This description shall contain a discussion of all DOE actions relevant to the proceeding.

(c) The applicant shall state whether he requests that a conference or hearing be convened regarding the application, as provided in subpart F of this part.

§ 1003.45 OHA evaluation.

(a) (1) The OHA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The OHA may order the submission of additional information, and may solicit and accept submissions from third persons relevant to an application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the OHA may also consider any other source of information, and may conduct hearings or conferences either in response to requests by parties in the proceeding or on its own initiative.

(2) If the OHA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the applicant, the OHA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the OHA may dismiss the application with prejudice.

(3) The OHA shall process applications for stay as expeditiously as possible. When administratively feasible, the OHA shall grant or deny an Application for Stay within 10 business days after receipt of the application.

(4) Notwithstanding any other provision of the DOE regulations, the OHA may make a decision on any Application for Stay prior to the receipt of written comments.

(b) The criteria to be considered and weighed by the OHA in determining whether a stay should be granted are:

(1) Whether a showing has been made that an irreparable injury will result in the event that the stay is denied;

(2) Whether a showing has been made that a denial of the stay will result in a more immediate hardship or inequity to the applicant than a grant of the stay would cause to other persons affected by the proceeding;

(3) Whether a showing has been made that it would be desirable for public policy reasons to grant immediate relief pending a decision by OHA on the merits;

(4) Whether a showing has been made that it is impossible for the applicant to fulfill the requirements of an outstanding order or regulatory provision; and

(5) Whether a showing has been made that there is a strong likelihood of success on the merits.

§ 1003.46 Decision and Order.

(a) In reaching a decision with respect to an Application for Stay, the OHA shall consider all relevant information in the record. An Application for Stay may be decided by the issuance of an order either during the course of a hearing or conference in which an official transcript is maintained or in a separate written Decision and Order. Any such order shall include a statement of the relevant facts and the legal basis of the decision. The approval or denial of a stay is not an order of the OHA that is subject to administrative or judicial review.

(b) In its discretion and upon a determination that it would be desirable to do so in order to further the objectives stated in the regulations or in the statutes the DOE is responsible for administering, the OHA may order a stay on its own initiative.

Subpart E—Modification or Rescission

§ 1003.50 Purpose and scope.

This subpart establishes the procedures for the filing of an

application for modification or rescission of a DOE order. An application for modification or rescission is a summary proceeding that will be initiated only if the criteria described in § 1003.55(b) are satisfied.

§ 1003.51 What to file.

A person filing under this subpart shall file an ''Application for Modification (or Rescission),'' which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing. The general filing requirements stated in § 1003.9 shall be complied with in addition to the requirements stated in this subpart.

§ 1003.52 Where to file.

The application shall be filed with the OHA at the address provided in § 1003.11.

§ 1003.53 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application, from which confidential information has been deleted in accordance with § 1003.9(f), to each person who is reasonably ascertainable by the applicant as a person who would be aggrieved by the OHA action sought, including persons who participated in the process that led to the issuance of the order for which the modification or rescission is sought. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application to the OHA within 10 days. The application filed with the OHA shall include certification to the OHA that the applicant has complied with the requirements of this paragraph and shall include the names and addresses of all persons to whom a copy of the application was sent.

(b) If an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was not sent. The OHA may require the applicant to provide additional or alternative notice, may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the **Federal Register**.

(c) The OHA shall serve notice on any other person readily identifiable by the OHA as one who would be aggrieved by the OHA action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 10 days of service of that notice.

(d) Any person submitting written comments to the OHA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to the applicant. The person shall certify to the OHA that he has complied with the requirement of this paragraph. The OHA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 1003.54 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the OHA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable), a complete statement of the business or other reasons that justify the act or transaction, a description of the acts or transactions that would be affected by the requested action, and a full description of the pertinent provisions and relevant facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted to the OHA upon its request. A copy of the order of which modification or rescission is sought shall be included with the application.

(b) The applicant shall state whether he requests or intends to request that there be a conference regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible. The request and the OHA determination on the request shall be made in accordance with subpart F of this part.

(c) The applicant shall fully describe the events, acts, or transactions that comprise the significantly changed circumstances, as defined in § 1003.55(b)(2), upon which the application is based. The applicant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the process that led to the issuance of the order for which modification or rescission is sought.

(d) The application shall include a discussion of all relevant authorities, including, but not limited to, DOE rules, regulations, and decisions on appeal and exceptions relied upon to support the action sought therein.

§ 1003.55 OHA evaluation.

(a)(1) The OHA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The OHA may solicit and accept submissions from third persons relevant to any application for modification or rescission provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application for modification or rescission, the OHA may convene a conference, on its own initiative, if, in its discretion, it considers that such conference will advance its evaluation of the application.

(2) If the OHA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the OHA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the OHA may dismiss the application with prejudice. If the applicant fails to provide the notice required by § 1003.53, the OHA may dismiss the application without prejudice.

(b)(1) An application for modification or rescission of an order shall be processed only if—

(i) The application demonstrates that it is based on significantly changed circumstances; and

(ii) The period within which a person may file an appeal has lapsed or, if an appeal has been filed, a final order has been issued.

(2) For purposes of this subpart, the term ''significantly changed circumstances'' shall mean—

(i) The discovery of material facts that were not known or could not have been known at the time of the proceeding and action upon which the application is based;

(ii) The discovery of a law, rule, regulation, order or decision on appeal or exception that was in effect at the time of the proceeding upon which the application is based and which, if such had been made known to the OHA, would have been relevant to the proceeding and would have substantially altered the outcome; or

(iii) There has been a substantial change in the facts or circumstances upon which an outstanding and continuing order of the OHA affecting

the applicant was issued, which change has occurred during the interval between issuance of such order and the date of the application and was caused by forces or circumstances beyond the control of the applicant.

§ 1003.56 Decision and Order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the OHA shall issue a Decision and Order granting or denying the application.

(b) The Decision and Order shall include a written statement setting forth the relevant facts and the legal basis of the Decision and Order. When appropriate, the Decision and Order shall state that it is a final order of which the applicant may seek judicial review.

(c) The OHA shall serve a copy of the Decision and Order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by the OHA as one who is aggrieved by such Decision and Order.

Subpart F—Conferences and Hearings

§ 1003.60 Purpose and scope.

This subpart establishes the procedures for requesting and conducting an OHA conference or hearing. Such proceedings shall be convened in the discretion of the OHA, consistent with OHA requirements.

§ 1003.61 Conferences.

(a) The OHA in its discretion may direct that a conference be convened, on its own initiative or upon request by a person, when it appears that such conference will materially advance the proceeding. The determination as to who may attend a conference convened under this subpart shall be in the discretion of the OHA, but a conference will usually not be open to the public.

(b) A conference may be requested in connection with any proceeding of the OHA by any person who would be aggrieved by that proceeding. The request may be made in writing or verbally, but must include a specific showing as to why such conference will materially advance the proceeding. The request shall be addressed to the OHA, as provided in § 1003.11.

(c) A conference may only be convened after actual notice of the time, place and nature of the conference is provided to the person who requested the conference.

(d) When a conference is convened in accordance with this section, each person may present views as to the issues involved. Documentary evidence may be presented at the conference, but will be treated as if submitted in the regular course of the proceeding. A transcript of the conference will not usually be prepared. However, the OHA in its discretion may have a verbatim transcript prepared.

(e) Because a conference is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless the OHA in its discretion determines that such would be advisable.

§ 1003.62 Hearings.

(a) The OHA in its discretion may direct that a hearing be convened on its own initiative or upon request by a person, when it appears that such hearing will materially advance the proceeding. All hearings convened pursuant to this subpart shall be conducted by the Director of the OHA or his designee. The determination as to who may attend a hearing convened under this subpart shall be in the discretion of OHA. Hearings will be open to the public, but may be closed at the discretion of OHA if the reason is put in the record.

(b) A hearing may be requested by an applicant, appellant, or any other person who would be aggrieved by the OHA action sought. The request shall be in writing and shall include a specific showing as to why such hearing will materially advance the proceeding. The request shall be addressed to the OHA at the address provided in § 1003.11.

(c) A hearing may be convened only after actual notice of the time, place, and nature of the hearing is provided both to the applicant or appellant and to any other person readily identifiable by the OHA as one who would be aggrieved by the OHA action involved. The notice shall include, as appropriate:

(1) A statement that such person may participate in the hearing; or

(2) A statement that such person may request a separate conference or hearing regarding the application or appeal.

(d) When a hearing is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the hearing, but will be treated as if submitted in the regular course of the proceeding. A transcript of the hearing will be prepared.

(e) If material factual issues remain in dispute after an application or appeal has been filed, the Director of the OHA or his designee may issue an order convening an evidentiary hearing in which witnesses shall testify under oath, subject to cross-examination, for the record and in the presence of a Presiding Officer. A Motion for Evidentiary Hearing should specify the type of witness or witnesses whose testimony is sought, the scope of questioning that is anticipated, and the relevance of the questioning to the proceeding. A motion may be summarily denied for lack of sufficient specificity, because an evidentiary hearing would place an undue burden on another person or the DOE, or because an evidentiary hearing would cause undue delay.

(f) A Motion for Evidentiary Hearing must be served on any person from whom information is sought and on parties to the underlying administrative action. Any person who wishes to respond to a Motion for Evidentiary Hearing must do so within ten days of service.

(g) In reaching a decision with respect to a request for a hearing or motion filed under this subpart, the OHA shall consider all relevant information in the record. If an order is issued granting a hearing or evidentiary hearing, in whole or in part, the order shall specify the parties, any limitations on the participation of a party, and the issues to be considered. An order of the OHA issued under this section is an interlocutory order which is subject to further administrative review or appeal only upon issuance of a final Decision and Order in the proceeding concerned.

(h) At any evidentiary hearing, the parties shall have the opportunity to present material evidence that directly relates to a particular issue set forth for hearing. The Presiding Officer may administer oaths or affirmations, rule on objections to the presentation of evidence, receive relevant material, require the advance submission of documents offered as evidence, dispose of procedural requests, determine the format of the hearing, modify any order granting a Motion for Evidentiary Hearing, direct that written motions, documents or briefs be filed with respect to issues raised during the course of the hearing, ask questions of witnesses, issue subpoenas, direct that documentary evidence be served upon other parties (under protective order if such evidence is deemed confidential) and otherwise regulate the conduct of the hearing.

Subpart G—Private Grievances and Redress

§ 1003.70 Purpose and scope.

The OHA shall receive and consider petitions that seek special redress relief or other extraordinary assistance as provided for in the Federal Energy

Administration Act of 1974, Section 21 (15 U.S.C. 780), apart from or in addition to the other proceedings described in this part. This subpart may also apply if cross referenced in another DOE rule or regulation, or in a DOE delegation of authority. Petitions under this subpart shall include those seeking special assistance based on an assertion that DOE is not complying with its rules, regulations, or orders.

§ 1003.71 Who may file.

Any person may file a petition under this subpart who is adversely affected by any DOE rule, regulation or order subject to 15 U.S.C. 780 or who is so authorized by a program rule or regulation or a DOE delegation of authority.

§ 1003.72 What to file.

The person seeking relief under this subpart shall file a ''Petition for Special Redress or Other Relief,'' which shall be clearly labeled as such both on the petition and on the outside of the envelope in which it is transmitted, and shall be in writing. The general filing requirements stated in § 1003.9 shall be complied with in addition to the requirements stated in this subpart.

§ 1003.73 Where to file.

A petition shall be filed with the OHA at the address provided in § 1003.11.

§ 1003.74 Notice.

(a) The person filing the petition, except a petition that asserts that the DOE is not complying with agency rules, regulations, or orders, shall send by United States mail a copy of the petition and any subsequent amendments or other documents relating to the petition, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to each person who is reasonably ascertainable by the petitioner as a person who would be aggrieved by the OHA action sought. The copy of the petition shall be accompanied by a statement that the person may submit comments regarding the petition to the OHA within 10 days. The copy filed with the OHA shall include certification that the requirements of this paragraph have been complied with and shall include the names and addresses of each person to whom a copy of the petition was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the petitioner determines that compliance with paragraph (a) of this section would be impracticable, the petitioner shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and practicable to notify; and

(2) Include with the petition a description of the persons or class or classes of persons to whom notice was not sent.

(3) The OHA may require the petitioner to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the **Federal Register**.

(c) The OHA shall serve notice on any other person readily identifiable by the OHA as one who would be aggrieved by the OHA action sought and may serve notice on any other person that written comments regarding the petition will be accepted if filed within 10 days of service of that notice.

(d) Any person submitting written comments to the OHA regarding a petition filed under his subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to the petitioner. The person shall certify to the OHA that he has complied with the requirements of this paragraph. The OHA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 1003.75 Contents.

The petition shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the petition and to the OHA action sought. Such facts shall include, but not be limited to, the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction, if applicable; a description of the act or transaction, if applicable; a description of the acts or transactions that would be affected by the requested action; a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the petition, and an explanation of how the petitioner is aggrieved by DOE's position. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the petition shall be submitted to the OHA upon its request.

§ 1003.76 OHA evaluation of request.

(a) (1) The OHA may initiate an investigation of any statement in a petition and utilize in its evaluation any relevant facts obtained by such investigation. The OHA may solicit and accept submissions from third persons relevant to any petition provided that the petitioner is afforded an opportunity to respond to all third person submissions. In evaluating a petition, the OHA may consider any other source of information. The OHA on its own initiative may convene a conference, if, in its discretion, it considers that such will advance its evaluation of the petition.

(2) If the OHA determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted, the OHA may dismiss the petition without prejudice. If the failure to supply additional information is repeated or willful, the OHA may dismiss the petition with prejudice. If the petitioner fails to provide the notice required by § 1003.74, the OHA may dismiss the petition without prejudice.

(b) (1) The OHA will dismiss without prejudice a ''Petition for Special Redress or Other Relief'' if it determines that another more appropriate proceeding is provided by this part.

(2) The OHA will dismiss with prejudice a ''Petition for Special Redress or Other Relief'' filed by a person who has exhausted his administrative remedies with respect to any proceeding provided by this part, and received a final order therefrom that addresses the same issue or transaction.

§ 1003.77 Decision and Order.

(a) Upon consideration of the petition and other relevant information received or obtained during the proceeding, the OHA will issue a Decision and Order granting or denying the petition.

(b) The Decision and Order denying or granting the petition shall include a written statement setting forth the relevant facts and legal basis for the Decision and Order. Such Decision and Order shall state that it is a final order of the DOE of which the petitioner may seek judicial review.

[FR Doc. 95–6797 Filed 3–20–95; 8:45 am]
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DEPARTMENT OF ENERGY

10 CFR Parts 430, 765, and 766

Payments Equal to Taxes Provisions of the Nuclear Waste Policy Act of 1982, As Amended, Interpretation and Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Final rule; technical amendments.

SUMMARY: The Department is amending four rules which provide for adjudications by the Office of Hearings and Appeals (OHA), in order to conform them to OHA procedural regulations contained in a new part 1003 of chapter X, being published elsewhere in this issue of the **Federal Register**. This change of procedural references will not substantively affect the remedies provided under those rules. The Department is also amending certain rules to make clear its original intent that an appeal must be taken with OHA in order to exhaust administrative remedies.

EFFECTIVE DATE: These rules become effective April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202–586–2383, Internet: roger.klurfeld@hq.doe.gov.

SUPPLEMENTARY INFORMATION: OHA is a quasi-judicial body reporting to the Secretary of Energy. It is responsible for conducting most informal adjudicative proceedings of DOE where there is provision for separation of functions, other than those which are subject to the jurisdiction of the Federal Energy Regulatory Commission. Until today, procedural regulations governing OHA practice appeared mainly in part 205 of title 10 of the Code of Federal Regulations. Part 205, however, was designed to apply to matters involving the former oil price and allocation control regulations which were in effect during the period 1973 through January 1981. Because those oil-related proceedings are winding down, and the OHA is conducting a variety of other informal adjudications for the Department, the OHA procedural regulations have been organized as a new part 1003 within chapter X of title 10, which contains the general provisions of DOE regulations. Part 205 will continue to be used only to adjudicate matters which relate specifically to the federal oil regulations, while new part 1003 will be used for adjudicating most other matters within OHA's jurisdiction.

The procedures codified in part 1003 become applicable where program rules specifically reference them and state that a member of the public can make a request for relief under these rules. Four program rules or regulations currently reference part 205 procedures where the new part 1003 procedures would be more appropriate. Accordingly, DOE hereby is updating those references as follows. Until today, the program regulations that the Department promulgated in the Energy Conservation Program for Consumer Products, 10 CFR part 430, have stated that any person receiving an order may file an appeal with OHA using that office's appellate rules provided in 10 CFR part 205, subpart H. See 10 CFR 430.27(n). This provision is updated to reference the new appeals procedure in 10 CFR part 1003, subpart C. The same change is made in program regulations contained in 10 CFR part 765 (Reimbursement for Costs of Remedial Action at Active Uranium and Thorium Processing Sites) and 10 CFR part 766 (Uranium Enrichment Decontamination and Decommissioning Fund; Procedures for Special Assessment of Domestic Utilities). See 10 CFR 765.22(b) and 10 CFR 766.104(d). Finally, the Department stated in implementing the Payments-Equal-to-Taxes (PETT) provisions of the Nuclear Waste Policy Act of 1982, as amended, that an entity may file an appeal with OHA of a DOE PETT determination using the OHA's 10 CFR part 205, subpart H appellate rules. See Payments-Equal-To-Taxes Provisions of the Nuclear Waste Policy Act of 1982, as Amended, Interpretation and Procedures, as published in the **Federal Register** on August 27, 1991 (56 FR 42314). The reference on page 42319, column 2, of that notice to ''10 CFR part 205 subpart H'' is hereby changed to ''10 CFR part 1003, subpart C.'' Therefore, persons following procedures for the PETT provisions should now refer to 10 CFR part 1003, subpart C.

The procedural rules contained in the new 10 CFR part 1003, subpart C, correspond to nearly identical procedural rules contained in previously applicable 10 CFR part 205, subpart H. Thus, the foregoing conforming amendments adopted today merely change the procedural references and do not substantively affect the remedies available to aggrieved parties under the affected program rules.

It has always been the intent of DOE to require parties to pursue an administrative appeal prior to seeking judicial review. The Supreme Court has interpreted section 10(c) of the Administrative Procedure Act (APA) (5 U.S.C. 704) to provide that, with respect to actions brought under the APA, an administrative appeal is a prerequisite to judicial review only when expressly required by statute or when an agency rule requires appeal before review and the administrative action is made inoperative pending that review. *Darby* v. *Cisneros,* 113 S. Ct. 2539, 125 L. Ed. 2d 113 (1993). Accordingly, the Department is also amending two program rules to make clear its original intent that a person who receives an order from program officials must file an appeal with OHA and await the issuance of an order granting or denying the appeal in order to exhaust administrative remedies. The two programs are 10 CFR part 430 regarding consumer products and PETT determinations under the Nuclear Waste Policy Act of 1982. With respect to the rule on PETT determinations, as published in the **Federal Register** on August 27, 1991 (56 FR 42314), the phrase on page 42319, column 2, that ''Appeals may be filed with the Office of Hearings and Appeals (OHA)'' is modified to read ''In order to exhaust administrative remedies, appeals must be filed with the Office of Hearings and Appeals (OHA)''.[1] The specific changes to part 430 are set forth later in this notice.

Finally, a slight, nonsubstantive stylistic change is made in part 765.

List of Subjects

10 CFR Part 430

Administrative Practice and Procedure, Energy Conservation, Household Appliances.

10 CFR Part 765

Radioactive materials, Reclamation, Reporting and recordkeeping requirements, Uranium.

10 CFR Part 766

Confidential Business Information, Electric Power Rates, Electric Utilities, Nuclear Materials, Radioactive Materials, Reclamation, Reporting and Recordkeeping Requirements, Uranium, Waste Treatment and Disposal.

Issued in Washington, DC on March 14, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

For the reasons set forth in the preamble, 10 CFR parts 430, 765 and 766 are amended as set forth below:

[1] The affected provision in the PETT rule, with all changes made today, now reads:

D. Appeals Process

An appeals process is available for those jurisdictions which are challenging the original DOE determination related to PETT. In order to exhaust administrative remedies, appeals must be filed with the Office of Hearings and Appeals (OHA), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. The appeal must be filed within 45 days from the date of issuance of an original DOE determination related to PETT. Appeals will be governed by procedures set forth in 10 CFR part 1003, subpart C. [56 FR at 42319.]

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309.

§ 430.27 [Amended]

2. Section 430.27(n) is amended by adding at the beginning of the paragraph the phrase ''In order to exhaust administrative remedies,'', by revising the word ''may'' to read ''must'', and by revising the reference to ''10 CFR part 205, subpart H'' to read ''10 CFR part 1003, subpart C''.

PART 765—REIMBURSEMENT FOR COSTS OF REMEDIAL ACTION AT ACTIVE URANIUM AND THORIUM PROCESSING SITES

3. The authority citation for part 765 continues to read as follows:

Authority: Sections 1001–1004 of Pub. L. No. 102–486, 106 Stat. 2776 (42 U.S.C. 2296a *et seq.*)

4. Section 765.22(b) (third sentence) is revised to read as follows:

§ 765.22 Appeals procedures.

(a) * * *

(b) * * * Appeals must comply with the procedures set forth in 10 CFR part 1003, subpart C. * * *

PART 766—URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND; PROCEDURES FOR SPECIAL ASSESSMENT OF DOMESTIC UTILITIES

5. The authority citation for part 766 continues to read as follows:

Authority: 42 U.S.C. 2201, 2297g, 2297g–1, 2297g–2, 7254.

§ 766.104 [Amended]

6. Section 766.104(d) (second sentence) is amended by revising ''10 CFR part 205, subpart H'' to read ''10 CFR part 1003, subpart C''.

[FR Doc. 95–6798 Filed 3–20–95; 8:45 am]

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Federal Register

Tuesday
March 21, 1995

Part III

Department of Energy

Office of Energy Efficiency and Renewable Energy

10 CFR Part 490

Alternative Fuel Transportation Program; Proposed Rule

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 490

[Docket No. EE–RM–95–110]

Alternative Fuel Transportation Program

AGENCY: Department of Energy (DOE).

ACTION: Notice of proposed rulemaking and public hearings.

SUMMARY: The Department of Energy (DOE), Office of Energy Efficiency and Renewable Energy is proposing rules for implementation of the State and Local Incentives Program. Under this Program DOE may grant financial assistance to States for projects in DOE approved State plans to promote use of alternative fuels and alternative fueled vehicles.

DATES: Written comments (six copies and, if possible, a computer disk) on the proposed rule must be received by DOE on or before May 22, 1995. Oral views, data, and arguments may be presented at a public hearing which is scheduled as follows:

1. May 1, 1995, 9 a.m., U.S. Department of Energy, Forrestal Building, Room 1E–245, 1000 Independence Avenue, SW, Washington, D.C.

Requests to speak at the hearing should be received by DOE no later than 4 p.m. on April 27, 1995. The length of each oral presentation is limited to 10 minutes.

ADDRESSES: All written comments (six copies), and requests to speak at a public hearing, are to be submitted to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–33, Docket Number EE–RM–95–110, 1000 Independence Ave., SW, Washington, DC 20585, telephone number (202) 586–3012.

Copies of the hearing transcript and written comments may be inspected and photocopied in the DOE Freedom of Information Reading Room, Room 1E–190, (202) 586–6020, between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday, except Federal holidays. For more information concerning public comment on this proposed rulemaking, see section III of this Notice.

FOR FURTHER INFORMATION CONTACT:

Frank Mallgrave, Office of Alternative Fuels, Office of Transportation Technologies, Energy Efficiency and Renewable Energy, Department of Energy, Mail Stop EE–33, 5G–086, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–8077.

Vivian Lewis, Office of General Counsel, Energy Efficiency (GC–72), Department of Energy, Room 6B–256, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–9507.

For information concerning the public hearings and procedures concerning written comments: Ms. Andi Kasarsky, (202) 586–3012.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Section-By-Section Analysis
III. Opportunity for Public Comment
IV. Review Under Executive Order 12612
V. Review under Executive Order 12778
VI. Review under Executive Order 12866
VII. Review Under the Regulatory Flexibility Act
VIII. Review Under the Paperwork Reduction Act
IX. Review Under the National Environmental Policy Act
X. Review By Other Federal Agencies
XI. List of Subjects
XII. The Catalog of Federal Domestic Assistance

I. Introduction

Pursuant to Title IV, section 409 of the Energy Policy Act of 1992 (the Act) (Pub. L. 102–486), 42 U.S.C. 13235, this proposed rule will establish the State and Local Incentives Program, a financial assistance program, under which DOE will consider applications to support projects included in State plans. The proposed rule sets forth guidelines for participating States to follow in developing State plans. These plans will show how States intend to meet the Program's primary goals of accelerating the introduction and use of alternative fuels and substantial numbers of alternative fueled vehicles (AFV) by the year 2000. The proposed rule establishes grant application procedures and evaluation criteria. Participating States may also subaward to local government entities or the private sector to assist in the implementation of projects within an approved plan.

At the beginning of each fiscal year, DOE will publish a notice in the **Federal Register** and send a letter and a copy of the notice to the Governor of each State announcing the availability of funds. These notices will invite each Governor to submit to DOE a State plan, or an amendment to a previously approved plan, and apply for financial assistance to carry out the plan.

Pursuant to the Act, participating States must provide at least 20 percent of the estimated cost of the activities under their program, although the selection criteria will reward proposals with higher levels of cost sharing. This minimum cost sharing requirement may be met with in-kind services and cost contributions by other public and private entities that commit to a State plan. Upon review and approval of the plan by DOE, Federal assistance may be provided to the State. This assistance may be in the form of grants of up to 80% of the costs of implementing a plan's project(s), information, and technical assistance.

DOE will competitively evaluate proposed projects included in approved State plans against criteria described in this notice, including projected energy-related benefits, as measured by the amount of conventional motor fuel that may be displaced by the use of alternative fuels, and the projected number of registered alternative fueled vehicles as a percentage of all registered vehicles as of December 31, 2000. No State will receive more than one grant per year. A grant may, however, cover more than one project. No award shall exceed 10 percent of the total fiscal year funding for this program. All project periods must be consistent with the goals stated in a State plan and may not extend beyond the end of the year 2000.

The Department has, in another notice of proposed rulemaking, published on February 28, 1995 (60 FR 10970), proposed to establish rules concerning alternative fueled vehicles in part 490 of title 10 of the Code of Federal Regulations. This proposed rule would add subpart B to the proposed part 490.

II. Section-By-Section Analysis

This part of the Supplementary Information discusses those provisions of the proposed regulations that are not self-explanatory.

Proposed Section 490.101 Definitions

Some of the terms used in this proposed rule will be defined in a general definition section for part 490 to be codified in 10 CFR 490.2. Those definitions are proposed in a **Federal Register** notice dated February 28, 1995.

The proposed definition for ''life cycle'' is based on DOE's interpretation of the statutory provision which contains this phrase. Section 409(b)(2)(A) of the Act provides that in approving a State plan and determining the amount of financial assistance, if any, to be awarded, DOE must take into account, among other factors, an estimate of energy-related and environment-related impacts, on a life cycle basis, of the introduction and use of alternative fueled vehicles included in the State plan, compared to conventional motor vehicles. DOE is

proposing to define the ''life cycle'' of an alternative fueled vehicle as the time from the date the vehicle is registered by the State's motor vehicle agency as an alternative fueled vehicle, and ending when the vehicle is no longer registered as an alternative fueled vehicle. Because of the critical nature of a ''life cycle basis'' and how it will impact on the evaluation of State plans and the projects within the State plans, DOE invites comments on this definition.

Proposed Section 490.102 Who May Apply

The proposed rule would require any application for financial assistance and State plan submission to be submitted by the chief executive of a State. Such submissions are optional to the States, but any submission must comply with the requirements of this subpart.

Proposed Section 490.103 When and Where To Apply

The deadline date for submission of State plans to DOE may vary from year to year, depending upon the availability of funding. Normally funding is made available at the beginning of a fiscal year which commences October 1 of each year. Each year, after funding has been appropriated by Congress, DOE is proposing to announce the submission deadline in a **Federal Register** notice, and a letter to the Governor of each State, identifying the amount of funding available, as well as providing the address to which submissions may be sent.

Proposed Section 490.104 Content of State Plans

In paragraph (a) of this section, DOE is proposing to require that the State plan include the name and description of the lead organization designated to be responsible for implementing the plan and administering any grant awarded. DOE needs this information to ensure that it will be dealing with the proper State authority.

Paragraph (c) sets forth the primary goals of the Program which are to substantially increase, by the year 2000, the number of alternative fueled vehicles registered in the State and the number of alternative fuel refueling facilities licensed for operation. Each State plan must provide detailed descriptions as to how these goals are to be achieved.

With the exception of proposed paragraph (d)(11), all of the mandatory analyses set forth in paragraph (d) are statutorily required.

Paragraph (d)(5), which corresponds to section 409(a)(3)(E) of the Act, requires a State plan to describe how the State treats the sales of alternative fuels for use in alternative fueled vehicles. This information will be helpful to DOE in determining whether the State's methods of treating the sales of alternative fuels will actually increase the use of alternative fuels. If these methods are effective, DOE will share this information with all the States in an annual report which will be sent both to Congress and the Governor of each State.

Proposed paragraph (d)(8) requires, consistent with section 409(a)(3)(I) of the Act, that the plan identify any existing State laws or regulations, including traffic safety prohibitions, that would, unless amended, impede the implementation of the goals of this Program. The plan must describe how the State intends to resolve such impediments.

Paragraph (d)(9), which corresponds to section 409(a)(3)(J) of the Act, asks States to describe the services provided by municipal, county, and regional transit authorities. This requirement is important because DOE is interested in knowing how States will coordinate with other governmental entities in carrying out a State plan. To accelerate the use of alternative fueled vehicles, there must be adequate refueling facilities. Coordination and cooperation among the various governmental entities within the States will be of great importance in facilitating the availability of alternative fuels in areas where alternative fueled vehicles operate.

Proposed paragraph (d)(11) also provides that each State plan shall consider participation in DOE's Clean Cities Program. The Clean Cities Program provides an opportunity for States to get more involved in coordinating with other States as well as with alternative fuel providers, local governments, vehicle manufacturers, and others. The Clean Cities' goals are to put into operation 250,000 new alternative fueled vehicles and 500 to 1000 refueling stations in 50 cities by 1996. As of January, 1995, 34 cities in 21 States are participating in the Clean Cities Program. For information on the Clean Cities Program, please write to Department of Energy, Clean Cities Program, EE–33, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–1885.

Proposed Section 490.105 State Plan Amendments

Subsequent to an initial award under this subpart, a State may, with DOE approval, amend a plan with updated information. A State must submit an amendment to a proposed plan if any of the previously submitted information corresponding to paragraphs (e), (f), and (g) of proposed § 490.104 has changed.

Proposed Section 490.106 Review of Assistance Applications

DOE is proposing in paragraph (e) of section 490.106 to competitively evaluate proposed projects in approved plans against specified criteria listed in descending order of importance. The most important proposed criterion as set forth in paragraph (e)(1) is the projected energy-related benefits, per dollar expended, that may be achieved through the use of alternative fuels from the start of the program through December 31, 2000. DOE is proposing that energy-related benefits, be measured on a life cycle basis through the use of alternative fueled vehicles, by the amount of conventional motor fuel that is displaced by alternative fuels. The calculation of displacement may be denominated in gallons, British thermal units (Btus) or any other appropriate method. For DOE to evaluate the energy benefits of a proposed project, it is important that the State indicate the degree to which alternative fuels will actually be used by alternative fueled vehicles. For projects that provide for dedicated alternative fueled vehicles to be placed into use, alternative fuel use is assumed and no further demonstration is needed. For projects that include vehicles capable of operating on gasoline or diesel, as well as alternative fuel, estimates of the actual alternative fuel use must be specified, accompanied by information about measures to realize such levels of use. The energy related benefits are proposed to be included in the annual report that participating States must submit to DOE as provided in proposed section 490.110.

The energy related benefit is the highest ranked criterion used to evaluate proposed projects in State plans. DOE welcomes and encourages comments on the proposed measure, or any others that are recommended.

The second most important criterion as proposed in paragraph (e)(2) is the projected number of alternative fueled vehicles as a percentage of vehicles registered in the State as of December 31, 2000.

Proposed § 490.104(g) reflects the statutory requirement that DOE shall not approve a State plan unless the State agrees to contribute at least 20 percent of the cost of plan projects. In addition, DOE is proposing in paragraph (e)(3) that the third most important criterion in evaluating proposed projects is the extent of cost sharing in excess of the minimum 20 percent cost share and the

level of actual non-Federal outlays rather than in-kind contributions. Cost sharing may come from any non-Federal source, private or public. The additional cost sharing will enable DOE to stretch scarce appropriations to cover more projects.

The fourth most important criterion, as proposed in paragraph (e)(4), would be the projected environmental benefits derived as of December 31, 2000 through the use of alternative fueled vehicles. Environmental benefits in this context are most appropriately based on reductions of exhaust, evaporative and greenhouse gas emissions. DOE believes that this criterion is important because use of alternative fueled vehicles has the significant potential for reducing vehicle emissions such as hydrocarbons from combustion and fuel evaporation, and carbon monoxide, nitrogen oxides, and other pollutants from combustion. In addition, there is the potential of reducing vehicle emissions of greenhouse gases.

State plans which request consideration under the environmental benefit criterion must provide an estimate of how many alternative fueled vehicles under the plan will be certified to each of the Environmental Protection Agency (EPA) clean fuel vehicle emission standards pursuant to 40 CFR part 88. Benefits claimed will be evaluated by the number of alternative fueled vehicles certified to the various tiers of EPA clean vehicle standards, such as low emission, inherently low emission, ultra-low emission and zero emission vehicles. In calculating environmental benefits to be derived from alternative fueled vehicles, States may want to refer to EPA's Technical Report entitled Lifetime Emissions for Clean Fuel Fleet Vehicles, dated October 1993.

DOE is proposing that a report, entitled Emissions of Greenhouse Gases from the Use of Transportation Fuels and Electricity by M. A. DeLuchi, dated November 1991 and amended by letter April 22, 1992, serve as the basis for the calculation of greenhouse gas emissions. This report was prepared for the Center for Transportation Research, Energy Systems Division, Argonne National Laboratory. It is available to the public from the National Technical Information Service, U.S. Department of Commerce, 5825 Port Royal Road, Springfield, Virginia 22161. This report sets forth the total carbon dioxide equivalent grams per mile emissions, by fuel and vehicle type. The method of calculation is simply a matter of applying the estimated number of miles traveled per year, by vehicle and fuel type, against the carbon dioxide equivalent grams per mile. During the hearings and sixty day comment period DOE urges suggestions as to the appropriateness of this method and recommendations for alternative methods.

DOE is proposing in paragraph (e)(5) that the fifth most important criterion be the number of alternative fuel refueling facilities projected to be in operation by December 31, 2000.

Proposed paragraph (e)(6) addresses interstate coordination. DOE is suggesting, as an option, that States consider coordinating the development of alternative fuel refueling facilities along interstate highways with adjacent States, where applicable. The benefit from such coordination would be to increase the potential driving range of alternative fueled vehicles and, thereby, make their use more widely feasible and attractive.

Proposed paragraph (e)(7) provides the seventh criterion which is participation in DOE's Clean Cities Program. Neither paragraph (e)(6) nor (e)(7) of these criteria are set forth in the Act, but both are considered very important for the long term effectiveness of the program.

The eighth criterion, as proposed in paragraph (e)(8), deals with how well a State has implemented its plan during the previous budget period. If a State requests funding for new projects in a subsequent budget period, but has failed to implement its previously approved projects in a timely fashion, the new plan may not receive favorable consideration.

The ninth and last criterion, as proposed in paragraph (e)(9), relates to the innovation and creativity of the proposed projects. DOE encourages States to be resourceful in reaching the goals and objectives of this proposed regulation beyond the minimum requirements. For example, the number of alternative fueled vehicles that are registered in a State is a key element within the State and Local Incentives Program. Based on information available to DOE, very few States, if any, are able to distinguish the fuel system type of vehicles registered in the State. As an additional project that may receive favorable consideration, States may want to modify their registration system so that alternative fueled vehicles can be identified. This kind of information would assist DOE in gathering information on the distribution of each type of alternative fueled vehicle. Other innovative and creative projects might include far-reaching public relations programs or information exchange activities which encourage local governments and the private sector to acquire alternative fueled vehicles.

Although Section 409 of the Act provides for the use of financial assistance to acquire alternative fueled vehicles, and States are required to acquire a certain percentage of alternative fueled vehicles under Section 507(o) of the Act, States are encouraged to develop plans that would use grants for broader purposes. State plans will receive favorable consideration if they consider resourceful and innovative methods of increasing alternative fuel, encouraging acquisition of alternative fueled vehicles by local governments and private parties, and expanding the alternative fuel infrastructure.

In paragraph (f), DOE is proposing to limit the amount of funding that any State may receive. Based on prior experience, DOE does not expect to be able to provide funding for each and every project within an approved plan. DOE, however, wants to ensure that as many States as possible participate in this Program. Therefore, it is proposed that, regardless of the number of proposed projects in an approved plan, each State may not receive more than one grant per calendar year. The grant may, however, cover more than one project. Additionally, each award may not exceed 10 percent of the total fiscal year funding for the State and Local Incentives Program.

Proposed Section 490.107 Expenditure Limitations

DOE is proposing that overhead costs for State programs be limited to 10 percent of a financial award. This would include costs related to salaries, office equipment, and library materials. This provision is directly related to achieving the overall goal of this Program—to substantially increase the use of alternative fueled vehicles by the year 2000. It will ensure that 90 percent of the funds are expended on activities and project costs that produce goal-related results.

Proposed Section 490.108 De-Obligation of Funds

DOE is proposing to deobligate any funds that a State has failed to obligate or expend within a budget period. A budget period is generally 12 months and may not exceed 24 months. If the funds are not obligated or expended by the State within the budget period, DOE is proposing to de-obligate the funds which shall become available for award, in the same manner as newly appropriated funds, to another financial assistance recipient.

Proposed Section 490.109 Technical Assistance and Information

DOE is proposing, pursuant to section 409(b)(1)(A) of the Act, to provide States with information and technical assistance if requested, subject to the availability of resources. One form of such assistance could be coordinating the acquisition of alternative fueled vehicles with Federal procurement of these vehicles. Such coordinated acquisition may decrease the costs of the alternative fueled vehicles to the State.

Proposed Section 490.110 Reports

Each State awarded a grant under this proposed subpart must submit an annual report to DOE for the period of time covered by the State plan. This report must be submitted not later than 30 days after the close of the calendar year. The information required in the State report will be used to monitor the implementation of the State plan, the projects within an approved plan, and the expenditure of funds. Pursuant to section 409(c)(2) of the Act, DOE must report annually to the President and Congress. Information in the State reports will also be used to compile the DOE report to Congress and the President.

III. Opportunity for Public Comment

A. Written Comment Procedures

Interested persons are invited to participate in this rulemaking by submitting data, views or comments with respect to the matters set forth in this notice.

Written comments (6 copies) should be identified on the outside of the envelope, and on the documents themselves, with the designation: ''State and Local Incentives Program, Notice of Proposed Rulemaking, Docket Number EE–RM–95–110'', and must be received by the date specified at the beginning of this notice. In the event any person wishing to submit a written comment cannot provide six copies, alternative arrangements can be made in advance by calling Ms. Andi Kasarsky at (202) 586–3012. Additionally, DOE would appreciate an electronic copy of the comments to the extent possible. The Department is currently using Wordperfect 5.1 for DOS.

All comments received on or before the date specified at the beginning of this notice and other relevant information will be considered by DOE before final action is taken on the proposed rule. All comments submitted will be available for examination in the Rule Docket both before and after the closing date for comments. In addition, a transcript of the proceedings of the public hearing will be filed in the docket.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information or data that is believed to be confidential, and which may be exempt by law from public disclosure, should submit one complete copy, as well as two copies from which the information claimed to be confidential has been deleted. The Department of Energy shall make its own determination of any such claim and treat it according to its determination.

B. Public Hearing Procedures

The time and place of the public hearing is indicated at the **ADDRESSES** section of this notice. Any person who has an interest in the proposed regulation or who is a representative of a group or class of persons which has an interest in it may make a request for an opportunity to make an oral presentation at the hearing. A request to speak at the hearing should be sent to the address or phone number indicated in the **ADDRESSES** section of this notice and be received by the time specified in the **DATES** section of this notice.

The person making the request should briefly describe his or her interest in the proceedings and, if appropriate, state why that person is a proper representative of a group. The person should also provide a phone number where he/she may be reached during the day. Each person selected to speak at the public hearing will be notified as to the approximate time their presentation will be given. Six copies of the speaker's statement should be brought to the hearing. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made in advance by so indicating in a letter or phone call to Ms. Andi Kasarsky ((202)–586–3012) requesting an opportunity to make an oral presentation.

The Department of Energy reserves the right to select persons to be heard at the hearing, to schedule their presentations, and to establish procedures governing the conduct of the hearing. The length of each presentation will be limited to ten minutes, or based on the number of persons requesting to speak.

A Department of Energy official will preside at the hearing. This will not be a judicial or evidentiary-type hearing, but will be conducted in accordance with 5 U.S.C. 553. At the conclusion of all initial oral statements, each person will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the Presiding Officer.

If DOE must cancel the hearing, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register**. Notice of cancellation will also be given to all persons scheduled to speak at the hearing. Hearing dates may be canceled in the event no public testimony has been scheduled in advance.

IV. Review Under Executive Order 12612

Executive Order 12612 requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the National Government and the States, or on the distribution of power among various levels of government. If there are sufficient substantial direct effects, the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing policy action.

Although today's proposed rule is mandated by the Act, State participation in the State and Local Incentives Program is voluntary. This proposed rule simply establishes ground rules for implementation of the Program. Many States are currently conducting alternative fueled vehicle programs and are anticipating that the influx of Federal funding through the State and Local Incentives Program will assist them in achieving their goals of accelerating the use of alternative fueled vehicles.

Today's proposed rule will have direct effects on those States that choose to participate in the Program in that a State must share at least 20 percent of the cost of implementing the State plan's projects, and must comply with the other requirements of the Program. Most of the proposed rule's provisions, including the cost sharing requirement, correspond to provisions of the Act. Wherever possible, however, DOE has attempted to simplify the implementation of this Program by providing as much flexibility as possible to the States.

DOE has determined that this proposed rule will not have a substantial direct effect on the institutional interests or traditional functions of States in relationship to the Federal Government. Therefore, preparation of a federalism assessment is unnecessary.

V. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. The requirements in section (2)(a) and (b)(2) of this Executive Order include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation by providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make all reasonable efforts to ensure that regulations specify clearly any preemptive effect on existing Federal law or regulation and any retroactive effects. Rulemaking notices must describe any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of administrative remedies. DOE certifies that the proposed rule meets the requirements of section 2(a) and (b)(2) of Executive Order 12778.

VI. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a significant regulatory action under Executive Order 12866, Regulatory Planning and Review, October 4, 1993. Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA).

VII. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, Public Law 96–354, 5 U.S.C. 601 *et seq.*, requires preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities. This proposed rule will impact only those States that decide to initiate or in some instances, continue an alternative fuel and alternative fueled vehicle program. The Department of Energy, therefore, certifies that there will not be a significant economic impact on a substantial number of small entities, and that preparation of a regulatory flexibility analysis is not warranted.

VIII. Review Under the Paperwork Reduction Act

New information collection or record keeping requirements are subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Accordingly, this notice has been submitted to the Office of Management and Budget for review and approval of paperwork requirements.

The Energy Policy Act requires DOE to report annually to Congress and the President and to furnish copies of the report to each State participating in the Program. Most of the information required to be included in the report can be collected only from the participating States. This information is necessary to determine if the Program is being implemented adequately and to determine the effectiveness of the Program in accelerating the use of alternative fueled vehicles. DOE cannot estimate how many States may participate in the Program.

The public reporting burden is estimated to average eight hours per response, including time for reviewing instructions, gathering and maintaining the data needed, and completing and retrieving the collection of information. DOE has attempted to require States to collect and maintain only those records that are essential in assisting DOE to administer the Program in an effective manner and to comply with a reporting requirement to the President and Congress.

Comments on the information collection requirements contained in this rule should be submitted both to the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Hearings and Dockets, Docket Number EE–RM–95–110, at the address given earlier in this notice, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

IX. Review Under the National Environmental Policy Act

The Department of Energy has concluded that, before the final promulgation of this rule and related rules implementing the alternative fueled vehicle provisions of the Energy Policy Act of 1992, an Environmental Assessment will be completed.

X. Review By Other Federal Agencies

The Department of Energy has provided a draft copy of this notice to the staff of the Administrator of the Environmental Protection Agency and the Secretary of the Department of Transportation pursuant to Section 409(a)(2) of the Energy Policy Act of 1992. The Administrator responded regarding emission criteria and certification of vehicles. These responses were incorporated into the Notice of Proposed Rule. The Secretary of Transportation had no comment. The Department of Energy has also provided a draft copy of this notice to the Automotive Commodity Center, Federal Supply Service, General Services Administration, pursuant to Section 409(b)(3).

XI. List of Subjects in 10 CFR Part 490

Appeal procedures, Energy, Energy conservation, Fuel, Gasoline, Motor vehicles, Oil imports, Petroleum, Recordkeeping and reporting requirements and Utilities.

XII. The Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the State and Local Incentive Program is 81.111.

Issued in Washington, D.C., March 10, 1995.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reason set forth in the preamble, DOE proposes to amend part 490 of title 10 of the Code of Federal Regulations as proposed on February 28, 1995 and as set forth below:

PART 490—ALTERNATIVE FUEL TRANSPORTATION PROGRAM

1. The authority citation to part 490 is revised to read as follows:

Authority: 42 U.S.C. 7191; 42 U.S.C. 13235; 42 U.S.C. 13251; 42 U.S.C. 13257; 42 U.S.C. 13258; 42 U.S.C. 13260–3.

2. A new subpart B is proposed to be added to part 490 as set forth below:

Subpart B—State and Local Incentives Program

490.100 Purpose and scope.
490.101 Definitions.
490.102 Who may apply.
490.103 When and where to apply.
490.104 Content of State plans.
490.105 State plan amendments.
490.106 Review of assistance applications.
490.107 Expenditure limitations.
490.108 De-obligation of funds.
490.109 Technical assistance and information.
490.110 Reports.

§ 490.100 Purpose and scope.

(a) This subpart sets forth the guidelines for implementation of the State and Local Incentives Program. Under this program, DOE may grant financial assistance to States for projects in DOE-approved State plans. This subpart provides guidelines for development of State plans to accelerate the introduction and use of alternative fuels and alternative fueled vehicles by the year 2000, and for applications for financial assistance to carry out projects included in approved State plans.

(b) Except as otherwise provided in this subpart, the provisions of 10 CFR part 600 apply to financial assistance awards under this part.

§ 490.101 Definitions.

In addition to the definitions found in § 490.2, the following definitions apply to this subpart—

Awardee means the State named in the notice of financial assistance award.

British thermal unit (Btu) is defined as the amount of heat required to raise the temperature of one pound of water one degree Fahrenheit.

Clean Cities Program is a voluntary Federal program designed to accelerate and expand the use of alternative fueled vehicles in communities throughout the country and to provide refueling and maintenance facilities for their operation.

Conventional motor fuel means gasoline or diesel fuel used in a motor vehicle.

Evaporative Emissions are hydrocarbons released into the atmosphere as a result of fuel evaporation from a vehicle's fuel system.

Exhaust Emissions are substances released into the atmosphere through motor vehicle tailpipes resulting either from uncombusted fuel or from chemical reactions during combustion. They can include carbon monoxide, oxides of nitrogen, hydrocarbons, and particulate matter.

Governor means the chief executive of a State or a person designated by the chief executive officer to act upon his or her behalf.

Greenhouse Gas Emissions means emissions of carbon dioxide and other gases such as chlorofluorocarbon, methane, ozone, and nitrous oxide that contribute to global climate change.

Life cycle means the period of time beginning with the date on which the vehicle is registered as an alternative fueled vehicle by the motor vehicle agency of the State and ending on the date the vehicle is no longer registered as an alternative fueled vehicle.

Project means any activity specified in a State plan which is undertaken to achieve the goals set forth in the State plan.

State plan means a State and Local Incentives plan submitted to DOE that contains proposed projects and provisions designed to introduce a substantial number of alternative fueled vehicles and increase the use of alternative fuels by the year 2000.

§ 490.102 Who may apply.

The Governor of any State may submit to DOE a State plan and apply for Federal assistance to carry out that plan under this subpart.

§ 490.103 When and where to apply.

For each fiscal year, DOE will publish a notice in the **Federal Register** announcing the availability of funds, specifying the deadline for submissions, and providing the address to which a submission may be sent. A copy of this notice will be sent to the Governor of each State. In order to be eligible for Federal assistance, a State must submit an application on standard forms, pursuant to 10 CFR Part 600, and either a proposed State plan, or a proposed State plan amendment to a previously approved plan. This submission must be made before the specified deadline.

§ 490.104 Content of State plans.

(a) *Organization.* Each State plan must name and describe the functions of the State organization designated by the Governor to carry out the provisions of the plan.

(b) *Intergovernmental coordination.* Each State plan shall describe the manner in which the State intends to coordinate with the Federal Government, local governments, and the private sector in implementing the plan.

(c) *Goals.* Each State plan must identify its goals for the number of alternative fueled vehicles to be registered within the State, the amount of alternative fuel to be used within the State, and the number of alternative fuel refueling facilities to be licensed for operation. The plan must also provide a detailed description as to how these goals can be achieved by the year 2000.

(d) *Mandatory analyses.* Each State plan shall include an examination of—

(1) Exemption from State sales tax or other State or local taxes or surcharges (other than such taxes or surcharges which are dedicated for transportation purposes) with respect to alternative fueled vehicles, alternative fuels, or alternative fuel refueling facilities;

(2) The introduction of alternative fueled vehicles into State-owned or operated motor vehicle fleets;

(3) Special parking for alternative fueled vehicles at public buildings, as defined by § 490.201 of subpart A, and airport and transportation facilities;

(4) Programs of public education to promote the use of alternative fueled vehicles;

(5) The treatment of sales of alternative fuels for use in alternative fueled vehicles;

(6) Methods by which State and local governments might enhance—

(i) The availability of alternative fuels; and

(ii) The ability to recharge electric motor vehicles at public locations.

(7) Allowing public utilities to include in rates the incremental cost of—

(i) New alternative fueled vehicles;

(ii) Converting conventional vehicles to operate on alternative fuels; and

(iii) Installing alternative fuel refueling facilities; but only to the extent that the inclusion of such costs in rates would not create competitive disadvantages for other market participants, and taking into consideration the effect that inclusion of such costs would have on rates, service, and reliability to other utility customers;

(8) Whether accomplishing any of the goals of the State plan would require amendment to State law or regulations, including traffic safety prohibitions;

(9) Services provided by municipal, county, and regional transportation authorities;

(10) Effects of the State plan on programs authorized by the Intermodal Surface Transportation Efficiency Act of 1991 and amendments made by that Act;

(11) Participation in the DOE's Clean Cities Program; and

(12) Such other programs and incentives as a State may describe.

(e) *Projects.* Each State plan—

(1) Shall contain a detailed description of projects designed to result in scheduled progress toward, and achievement of, the goals of using alternative fuel and introducing substantial numbers of alternative fueled vehicles in the State by the year 2000. For each project, the plan must specify the project periods and milestones which must be consistent with the State plan goals; and

(2) Shall include estimates of the volumes of alternative fuels to be used within each calendar year as a result of each project.

(f) *Requirements.* Each State plan shall contain a detailed description of the requirements for implementing the plan, including the estimated cost and budget for implementation.

(g) *Cost Share.* Each State plan shall specify the non-federally funded share of each project, which must be at least 20 percent of the cost of the project. The plan must identify the amounts to be provided in cash and in-kind.

§ 490.105 State plan amendments.

Subsequent to an initial State plan approval and any award under this subpart, a State—

(a) May amend a State plan with the approval of DOE; and

(b) Must, in the event of any change to the provisions identified in paragraphs (e), (f) and (g) of § 490.104, submit a proposed State plan amendment with updated information for the approval of DOE.

§ 490.106 Review of assistance applications.

(a) On or before 60 days from an applicable deadline for submission of

applications for financial assistance, DOE shall review State plans or State plan amendments to determine whether they meet the requirements of this subpart and represent policies and activities reasonably designed to achieve the goals of a substantial number of alternative fueled vehicles in operation by the year 2000 and increased use of alternative fuel.

(b) DOE may request further information from States prior to completing its review under paragraph (a) of this section.

(c) DOE may allow a reasonable period of time to revise a proposed State plan or State plan amendment, or may condition approval on acceptance of revisions deemed necessary by DOE. A grant will not be awarded until all conditions are satisfied.

(d) If DOE finally disapproves a State plan or State plan amendment, DOE shall notify the Governor in writing with a statement of reasons.

(e) On the basis of approved State plans or approved State plan amendments, DOE shall evaluate proposed projects competitively against the following criteria which are listed in descending order of importance:

(1) Projected energy-related benefits, per dollar expended, on a life-cycle basis, through the use of alternative fueled vehicles, as measured by the amount of conventional motor fuel that is displaced by alternative fuels from the start of the project through December 31, 2000. This displacement may be calculated on the basis of gallons, British thermal units (Btus), or any other appropriate method.

(2) Projected number of alternative fueled vehicles introduced as of December 31, 2000, as a result of the project;

(3) Extent of cost sharing in excess of the minimum required 20 percent cost share and extent of contribution made in cash rather than in-kind;

(4) Projected environmental benefits, on a life-cycle basis, measured in terms of the reduction of exhaust, evaporative, and greenhouse gas emissions through December 31, 2000. Projections should be based on the number of alternative fueled vehicles that will be certified as meeting various EPA clean vehicle emission standards pursuant to 40 CFR part 88;

(5) Projected number of alternative fuel refueling facilities as of December 31, 2000;

(6) Extent of interstate collaboration on refueling infrastructure, including collaboration on development of alternative fuel refueling facilities along interstate highways with adjacent States;

(7) Extent of participation in DOE's Clean Cities Program;

(8) Effectiveness in carrying out State plan in previous budget periods; and

(9) Inclusion of creative and innovative projects.

(f) A State may not receive more than one grant per calendar year. This grant may cover multiple projects or projects expanding for more than one year. No award is to exceed 10 percent of the total fiscal year funding for the State and Local Incentives Program. In those instances where projects in an approved plan are not funded, the State may reapply for financial assistance for such projects in subsequent years.

§ 490.107 Expenditure Limitations.

A State may not expend more than 10 percent of a financial award for indirect costs including, but not limited to, salaries, equipment, and library materials.

§ 490.108 De-obligation of funds.

A budget period should typically be 12 months, but may not exceed 24 months unless an extension is approved by DOE. Any funds, under a notice of financial assistance award, which remain unexpended at the end of the budget period shall be de-obligated. DOE shall make these funds available for award, in the same manner as newly appropriated funds.

§ 490.109 Technical assistance and information.

At the request of the Governor of any participating State and subject to the availability of personnel and funds, DOE will provide technical assistance and information to the State in connection with effectuating the purposes of this subpart. Non-financial assistance, including coordinating the acquisition of alternative fueled vehicles with Federal procurement of alternative fueled vehicles, will be provided.

§ 490.110 Reports.

(a) For the period of time covered by a State plan, an awardee shall submit to DOE an annual report each calendar year and not later than 30 days after the close of the calendar year, which shall include at a minimum—

(1) The estimated number of alternative fueled vehicles in use in the State;

(2) A description of Federal, State and local programs undertaken within the State to provide incentives for the introduction of alternative fueled vehicles, whether or not these programs are within the State plan; and

(3) The estimated energy and environmental benefits of the State plan.

(b) An awardee shall submit to DOE a financial status report (FSR) (OMB No. 0348–0039) within 90 days after completion of each budget period. For budget periods exceeding 12 months, an FSR is also required within 90 days after the first 12 months, unless waived by the contracting officer.

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